

**TAB 3**



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**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

## **CITY OF PALMETTO CODE ENFORCEMENT BOARD**

**CITY OF PALMETTO**  
A political subdivision of the  
State of Florida

**Petitioner,**

vs.

**Case No. CEB 09-06**

Manatee Historic Properties, LLC  
Thomas C. Santilli  
911 Commerce Boulevard North  
Sarasota, FL 34243

**Respondent.**

### **NOTICE OF HEARING**

**Address of Violation:**  
313 14<sup>th</sup> Avenue West  
Palmetto, Florida 34221

Pursuant to Chapter 162, Florida Statutes, and City of Palmetto Code of Ordinances, Chapter 2, you are hereby called upon to take notice that a Public Hearing will be conducted before the City of Palmetto Code Enforcement Board (CEB) on the 31<sup>st</sup> day of March, 2009, at 6:00 P.M. in the Commission Chambers at City Hall, which is located at 516 8<sup>th</sup> Avenue West, Palmetto, Florida. The purpose of the hearing is to determine whether the City of Palmetto Code of Ordinances is being violated as set forth in the Notice of Violation dated February 10, 2009, and previously provided to you by Certified Mail/Return Receipt Requested on February 10, 2009. A copy of the Notice of Violation is attached to this Notice of Hearing as Exhibit A. The CEB will receive testimony and evidence at said Public

Santilli

Notice of Hearing /March 31, 2009

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Hearing and shall make such findings of fact and conclusions of law as are supported by the testimony and evidence pertaining to the matters alleged in the attached Notice of Violation. **If you are found to be in violation, a fine may be assessed against you, as provided by law.** The purpose of the hearing shall be to conduct proceedings regarding the attached Notice of Violation attached hereto as Exhibit A.

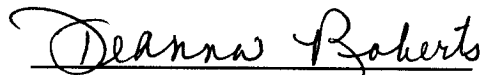
**If you desire to appeal any decision of the CEB with respect to any matter considered at this Public Hearing, you will need a verbatim record of the proceedings and for that purpose, you need to insure that a verbatim record is made which includes the testimony, and evidence upon which the appeal is to be based.** The hearing may be continued from time to time as deemed warranted and appropriate by the CEB. This case may be presented to the CEB even if the violation or repeat violation has been corrected prior to the hearing.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATE STATUTES, PERSONS WITH DISABILITIES NEEDING SPECIAL ASSISTANCE TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CODE ENFORCEMENT BOARD CLERK FOR ASSISTANCE AT LEAST THREE BUSINESS DAYS PRIOR TO THE MEETING AT (941) 723-4570.

**PLEASE GOVERN YOURSELF ACCORDINGLY.**

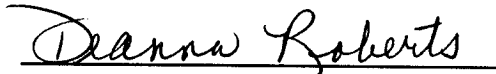
**DATED: March 11, 2009**

**CODE ENFORCEMENT BOARD OF THE  
CITY OF PALMETTO, FLORIDA**



Deanna Roberts  
Clerk of the Board

**I HEREBY CERTIFY** that a true and correct copy of the above and foregoing Notice of Hearing has been furnished by Certified Mail/Return Receipt Requested and by Regular Mail to the Respondent this 12<sup>th</sup> day of March, 2009.



Deanna Roberts  
Clerk of the Board

cc: Mark Barnebey, City Attorney  
David P. Persson, Code Enforcement Board Attorney

Santilli

§ 7-25

PALMETTO CODE

*Fee waiver:* Fees can be waived administratively for federal, state, and local units of government which are funded by ad valorem taxes. All other waiver requests shall be in accordance with applicable ordinances or resolutions adopted by the city council and established procedures.

(Ord. No. 525, § 1, 9-26-94; Ord. No. 02-01, § 1, 1-7-02)

**Secs. 7-26—7-30. Reserved.**

**ARTICLE III. FLORIDA BUILDING CODE\***

**Sec. 7-31. Florida Building Code adopted by reference.**

The city hereby acknowledges, adopts and incorporates within the Code of Ordinances the Florida Building Code as promulgated by the state building commission and adopted pursuant to F.S. chapter 553, part VII, which shall regulate, control and provide standards for building and construction activities including building, plumbing, electrical, mechanical and fuel gas construction standards, hurricane construction standards, fairhousing guidelines, accessibility and energy efficiency standards for the city. Furthermore, as provided by state law, the applicability of the Florida Fire Prevention Code is also incorporated through its inclusion by reference in the Florida Building Code. At least one (1) copy of the Florida Building Code along with any amendments or revisions thereto as provided for by state law, shall remain on file in the office of the city clerk for public use and inspection as well as the office of the city building official. Revisions, amendments or additions to the Florida Building Code shall only be made and become effective as provided for by state statutory law.

(Ord. No. 02-01, §§ 2, 6, 1-7-02)

**Secs. 7-32—7-50. Reserved.**

**ARTICLE IV. IMPACT FEES**

**DIVISION 1. IN GENERAL**

**Sec. 7-51. Purpose and intent.**

The purpose and intent of this article is to require that new development pay for its fair share of public facilities through the imposition of impact fees which will be used to finance, defray or reimburse the city for all or a portion of the costs of public facilities which serve such

**\*Editor's note**—Ord. No. 02-01, §§ 2 and 6, amended the Code by repealing former art. III, §§ 7-31—7-35, and added a new art. III to read as herein set out. Former art. III pertained to building standards, and derived from the Code of 1975, § 7-17; Ord. No. 204, adopted February 6, 1984; Ord. No. 249, adopted October 7, 1985; Ord. No. 328, adopted September 8, 1987; Ord. No. 386, adopted November 6, 1989; Ord. No. 458, adopted August 5, 1991; Ord. No. 549, adopted October 6, 1995; and Ord. No. 625, adopted October 5, 1998.

**State law reference**—Minimum standards for buildings, F.S. § 553.73.

number, shall be construed to refer to such chapter, section or provision of this code.

**102.4 Referenced codes and standards.** The codes and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

**102.5 Reserved.**

**102.6 Existing structures.** The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, or the *Florida Fire Prevention Code*, or as is deemed necessary by the building official for the general safety and welfare of the occupants and the public.

**102.7 Relocation of manufactured buildings.**

(1) Relocation of an existing manufactured building does not constitute an alteration.

(2) A relocated building shall comply with wind speed requirements of the new location, using the appropriate wind speed map. If the existing building was manufactured in compliance with the *Standard Building Code* (prior to March 1, 2002), the wind speed map of the *Standard Building Code* shall be applicable. If the existing building was manufactured in compliance with the *Florida Building Code* (after March 1, 2002), the wind speed map of the *Florida Building Code* shall be applicable.

## SECTION 103 Reserved

## SECTION 104 DUTIES AND POWERS OF BUILDING OFFICIAL

**104.1-104.8 Reserved.**

**104.9 Approved materials and equipment.** Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

**104.9.1 Used materials and equipment.** The use of used materials which meet the requirements of this code for new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

**104.10 Reserved.**

**104.11 Alternative materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. When alternate life safety systems are designed, the *SFPE Engineering Guide to Performance-Based Fire Protection Analysis and De-*

*sign of Buildings*, or other methods approved by the building official may be used. The building official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternative.

**104.11.1 Research reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

**104.11.2 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

**104.11.3 Accessibility.** Alternative designs and technologies for providing access to and usability of a facility for persons with disabilities shall be in accordance with Section 11.2.2.

## SECTION 105 PERMITS

**105.1 Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

**105.1.1 Annual facility permit.** In lieu of an individual permit for each alteration to an existing electrical, gas, mechanical, plumbing or interior nonstructural office system(s), the building official is authorized to issue an annual permit for any occupancy to facilitate routine or emergency service, repair, refurbishing, minor renovations of service systems or manufacturing equipment installations/relocations. The building official shall be notified of major changes and shall retain the right to make inspections at the facility site as deemed necessary. An annual facility permit shall be assessed with an annual fee and shall be valid for one year from date of issuance. A separate permit shall be obtained for each facility and for each construction trade, as applicable. The permit application shall contain a general description of the parameters of work intended to be performed during the year.

**105.1.2 Annual permit records.** The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

**105.1.3 Food permit.** As per Section 500.12, Florida Statutes, a food permit from the Department of Agriculture and Consumer Services is required of any person who operates a food establishment or retail store.

**105.2 Work exempt from permit.** Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code. Permits shall not be required for the following:

**Gas:**

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

**Mechanical:**

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part which does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (4.54 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.
8. The installation, replacement, removal or metering of any load management control device.

**Plumbing:**

1. The stopping of leaks in drains, water, soil, waste or vent pipe provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

**105.2.1 Emergency repairs.** Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

**105.2.2 Minor repairs.** Ordinary minor repairs may be made with the approval of the building official without a permit, provided the repairs do not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; additionally, ordinary minor repairs shall not include addition to, alteration of, replacement or relocation

of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring systems or mechanical equipment or other work affecting public health or general safety, and such repairs shall not violate any of the provisions of the technical codes.

**105.2.3 Reserved.**

**105.3 Application for permit.** To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the building department for that purpose. Permit application forms shall be in the format prescribed by a local administrative board, if applicable, and must comply with the requirements of Section 713.135(5) and (6), Florida Statutes.

Each application shall be inscribed with the date of application, and the code in effect as of that date. For a building permit for which an application is submitted prior to the effective date of the *Florida Building Code*, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.

**105.3.1 Action on application.** The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the building official shall issue a permit therefor as soon as practicable. When authorized through contractual agreement with a school board, in acting on applications for permits, the building official shall give first priority to any applications for the construction of, or addition or renovation to, any school or educational facility.

**105.3.1.1** If a state university, state community college or public school district elects to use a local government's code enforcement offices, fees charged by counties and municipalities for enforcement of the *Florida Building Code* on buildings, structures, and facilities of state universities, state colleges, and public school districts shall not be more than the actual labor and administrative costs incurred for plans review and inspections to ensure compliance with the code.

**105.3.1.2** No permit may be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit provides to the enforcing agency which issues the permit any of the following documents which apply to the construction for which the permit is to be issued and which shall be prepared by or under the direction of an engineer registered under Chapter 471, Florida Statutes:

1. Electrical documents for any new building or addition which requires an aggregate service capacity of 600 amperes (240 volts) or more on a residential electrical system or 800 amperes (240 volts) or more on a commercial or industrial electrical system and which costs more than \$50,000.

CONSTRUCTION STANDARDS

authorized to... shall not be... than advisory... decision of the... provisions of chapter 633.

(3) The commission may designate a commission member with demonstrated expertise in interpreting building plans to attend each meeting of the advisory council created in s. 553.512. The commission member may vary from meeting to meeting, shall serve on the council in a nonvoting capacity, and shall receive per diem and expenses as provided in s. 553.74(3).

(4) For educational and public information purposes, the commission shall develop and publish an informational and explanatory document which contains descriptions of the roles and responsibilities of the licensed design professional, residential designer, contractor, and local building and fire code officials. The State Fire Marshal shall be responsible for developing and specifying roles and responsibilities for fire code officials. Such document may also contain descriptions of roles and responsibilities of other participants involved in the building codes system.

(5) The commission may provide by rule for plans review and approval of prototype buildings owned by public and private entities to be replicated throughout the state. The rule must allow for review and approval of plans for prototype buildings to be performed by a public or private entity with oversight by the commission. The department may charge reasonable fees to cover the administrative costs of the program. Such approved plans or prototype buildings shall be exempt from further review required by s. 553.79(2), except changes to the prototype design, site plans, and other site-related items. As provided in s. 553.73, prototype buildings are exempt from any locally adopted amendment to any part of the Florida Building Code. Construction or erection of such prototype buildings is subject to local permitting and inspections pursuant to this part.

(6) The commission may produce and distribute a commentary document to accompany the Florida Building Code. The commentary must be limited in effect to providing technical assistance and must not have the effect of binding interpretations of the code document itself.

History.—s. 8, ch. 74-167; s. 4, ch. 75-85; s. 4, ch. 75-111; s. 3, ch. 77-365; s. 4, ch. 78-323; ss. 5, 8, ch. 79-152; ss. 3, 4, ch. 81-7; ss. 1, 4, ch. 82-46; s. 9, ch. 83-160; s. 2, ch. 83-265; s. 2, ch. 84-365; s. 1, ch. 86-135; s. 1, ch. 88-81; s. 9, ch. 89-139; s. 11, ch. 89-321; ss. 4, 5, 6, ch. 91-172; s. 5, ch. 91-429; s. 311, ch. 92-279; s. 55, ch. 92-326; s. 28, ch. 93-166; s. 51, ch. 95-196; ss. 45, 46, ch. 98-287; ss. 77, 78, 79, ch. 2000-141; ss. 26, 34, 35, ch. 2001-186.

553.781 Licensee accountability.—

(1) The Legislature finds that accountability for work performed by design professionals and contractors is the key to strong and consistent compliance with the Florida Building Code and, therefore, protection of the public health, safety, and welfare. The purpose of this section is to provide such accountability.

(2)(a) Upon a determination by a local jurisdiction that a licensee, certificateholder, or registrant licensed under chapter 455, chapter 471, chapter 481, or chapter 489 has committed a material violation of the Florida Building Code and failed to comply with...

ction other any a reasonable time, such local jurisdiction shall impose a fine of no less than \$500 and no more than \$1,000 for a material violation.

(b) If the licensee, certificateholder, or registrant disputes the violation within 30 days following notification by the local jurisdiction, the fine is abated. The local jurisdiction shall report the dispute to the Department of Business and Professional Regulation. The appropriate professional licensing board, or the appropriate investigation and final disposition. If an affirmative complaint is filed by the department of professional licensing board against the certificateholder or registrant, the commission may intervene in the proceeding. Any fine imposed by the department of professional licensing board, pursuant to a report received by the local jurisdiction to the department of professional licensing board, shall be shared equally between the board and the local jurisdiction which reported the violation.

(3) The Department of Business and Professional Regulation, as an integral part of the automated information system provided under s. 455.228, shall establish, and local jurisdictions and professional licensing boards shall participate in, a system of reporting violations and disciplinary actions taken against licensees, certificateholders, and registrants. Information regarding violations that have been disciplined for a violation of the Florida Building Code. Such information shall be available electronically. Any fines collected by a local jurisdiction pursuant to subsection (2) shall be used to help set up the parts of the reporting system in which such local jurisdiction is responsible. Any remaining moneys shall be used solely for the Florida Building Code, licensing activities under the Florida Building Code, or education and training under the Florida Building Code.

(4) Local jurisdictions shall maintain information readily accessible by the public, regarding violations and shall report such violations to the Department of Business and Professional Regulation through the reporting system provided in s. 455.228.

For purposes of this section, a material violation is a violation that exists within a complete building, structure, or facility which may reasonably be expected to result, in physical harm to a person or damage to the performance of a building or structure. Except when the fine is abated as provided in subsection (2), failure to pay the fine within 30 days results in a suspension of the licensee's, certificateholder's, or registrant's ability to obtain permits within such time as the fine is paid. Such suspension shall be reflected on the automated information system provided in s. 455.2286.

History.—s. 47, ch. 98-287; ss. 80, 81, ch. 2000-141; ss. 45, 46, ch. 2001-186.

553.79 Permits; applications; issuance of permits.—

(1) After the effective date of the Florida Building Code adopted as herein provided, it shall be unlawful for any person, firm, corporation, or other entity to construct, erect, alter, modify, repair, or maintain any building, structure, or facility without...

for from the appropriate enforcing agency or persons as may, by appropriate resolution of the authorized state or local enforcing agency, be delegated authority to issue such permits, payment of such reasonable fees adopted by the enforcing agency. The enforcing agency is empowered to deny any such permit upon a determination that the construction, erection, alteration, repair, or demolition of the building for which the permit was issued is in violation of, or not in compliance with, the provisions of the Florida Building Code, or local amendments thereto, for such proposal and found to be in compliance with the Florida Building Code. An enforcing agency may not issue a permit for construction, erection, alteration, modification, repair, or demolition of any building until the local building code administrator has reviewed the plans and specifications required by the Florida Building Code, or local amendments thereto, for such proposal and found that the proposal is in compliance with the Florida Building Code. Any building or structure which is exempt from the permit process and fees required by this section.

As provided in subsection (6), an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building until the local building code administrator has reviewed the plans and specifications required by the Florida Building Code, or local amendments thereto, for such proposal and found that the proposal is in compliance with the Florida Building Code. An enforcing agency may not issue a permit for construction, erection, alteration, modification, repair, or demolition of any building until the local building code administrator has reviewed the plans and specifications required by the Florida Building Code, or local amendments thereto, for such proposal and found that the proposal is in compliance with the Florida Building Code. Any building or structure which is exempt from the permit process and fees required by this section.

As provided in this chapter, the Florida Building Code, after the effective date of adoption pursuant to the provisions of this part, shall supersede all other building codes or ordinances in the state at the local or state level and whether promulgated by administrative regulation or by legislative action. However, this subsection does not apply to building codes for manufactured homes as defined by s. 403.01, which are contained in this subsection shall

or local agencies of authority to make inspections or to enforce the codes within their respective areas of jurisdiction.

(4) The Florida Building Code, after the effective date of adoption pursuant to the provisions of this part, may be modified by local governments to require more stringent standards than those specified in the Florida Building Code, provided the conditions of s. 553.73(4) are met.

(5)(a) The enforcing agency shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to and approved by the enforcing agency prior to the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents. The special inspector may not serve as a surrogate in carrying out the responsibilities of the building official, the architect, or the engineer of record. The contractor's contractual or statutory obligations are not relieved by any action of the special inspector. The special inspector shall determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a threshold building under s. 553.71(7), may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

(b) The fee owner of a threshold building shall select and pay all costs of employing a special inspector, but the special inspector shall be responsible to the enforcement agency. The inspector shall be a person certified, licensed, or registered under chapter 471 as an engineer or under chapter 481 as an architect.

(c) The architect or engineer of record may act as the special inspector provided she or he is on the Board of Professional Engineers' or the Board of Architecture and Interior Design's list of persons qualified to be special inspectors. School boards may utilize employees as special inspectors provided such employees are on one of the professional licensing board's list of persons qualified to be special inspectors.

(d) The licensed architect or registered engineer serving as the special inspector shall be permitted to send her or his duly authorized representative to the job site to perform the necessary inspections provided all required written reports are prepared by and bear the seal of the special inspector and are submitted to the enforcement agency.

(6) A permit may not be issued for any building construction, erection, alteration, modification, repair, or addition unless the applicant for such permit complies with the requirements for plan review established by the Florida Building Commission within the Florida