FLORIDA BUILDING COMMISSION

FLORIDA BUILDING CODE AND
FLORIDA FIRE PREVENTION CODE
DUPLICATE PROVISIONS AND OVERLAPPING
RESPONSIBILITIES

ASSESSMENT REPORT

MAY 11, 2005

Report By Jeff A. Blair
Florida State University

This document is available in alternate formats upon request to Dept. of Community Affairs, Codes & Standards, 2555 Shumard Oak Blvd., Tallahassee, FL 32399, (850) 487-1824.
I. INTRODUCTION AND OVERVIEW

The Florida Building Code and the Florida Fire Prevention Code, by design, contain overlapping technical provisions in order to ensure that buildings are designed and constructed with life-safety considerations as an integral part of both. In order to design buildings of certain size and occupancies both codes must be used together and one code may trigger the use of the other. In some instances the same provisions are in both codes, this is referred to as duplicate provisions. In other instances one code may reference the other, and in a few cases the two codes have conflicting requirements. In addition, the enforcement of the two codes, from plans review through final inspection, involve building and fire officials at the local, and in the case of fire, sometimes at the State level.

The development and implementation of the 2001 Florida Building Code required that the Florida Building Commission and the Division of State Fire Marshal work together to harmonize the codes. This was accomplished through the creation of a Joint Building Fire Technical Advisory Committee (TAC) comprised of the Commission’s Fire TAC and the State Fire Marshal’s Florida Fire Code Advisory Council. In regards to the technical provisions, to a large degree the TAC was successful in correlating the two codes and eliminating most conflicts.

The issue of enforcement and interpretation, is addressed in statute and requires the coordination and cooperation of the State Fire Marshal and the Florida Building Commission {F.S. 633.01 (5), F.S. 553.72 (5), and}, and that conflicts are resolved in “favor of the requirement that offers the greatest degree of lifesafety or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction” {F.S. 553.73 (1)(d)}. To the extent that there are still conflicting requirements within the codes, and there remains some level of confusion regarding the authority and enforcement between building and fire officials, this assessment will address issues and recommendations related to the duplicate provisions and overlapping responsibilities between the codes, and between building and fire officials respectively.

At the April 19, 2004 meeting of the Florida Building Commission, the Commission was petitioned to issue a declaratory statement (DCA04-DEC-046) regarding jurisdictional and enforcement issues related to a building official’s interpretation of authority related to enforcing certain provisions common to both codes. The Commission dismissed the petition and referred the matter back to the local administrative process for resolution. At the same meeting the Commission voted to conduct a joint project between the Florida Building Commission and Division of State Fire Marshal to identify and develop recommendations regarding duplicate provisions and overlapping responsibilities related to the Florida Building and Florida Fire Prevention Codes.

At the January 26, 2005 meeting of the Florida Building Commission, Chairman Rodriguez informed the Commission that an assessment project would commence with the goal of developing recommendations on how this issue should best be addressed.
This report presents the results of the assessment conducted on behalf of the Florida Building Commission and the Division of State Fire Marshal. It is based on interviews with the affected interests and a review of documentation. In addition, the assessment interviewer attended a Joint Building Fire TAC meeting and facilitated an issues identification session with the members.

There are no views attributed to specific individuals and findings represent a compilation of views representing a general level of agreement between interviewees. However, opinions run the gambit from the system is working fine to creating clearer lines of demarcation for authority and jurisdictional matters, to bifurcating and segregating the two codes entirely to removing some sections and referencing the other code by subject matter.

A central finding of the assessment is that, in regards to the code documents all conflicts should be resolved and a discussion should take place on whether to further partition the codes. In regards to enforcement issues, there is little support for further regulation, however there is support for reviewing authority and determining whether to more clearly delineate lines of demarcation for triggering either the building or fire official’s review. Most agree that conflicts at the local enforcement level are to a large degree issue of coordination, cooperation, and policy for local jurisdictions. Finally, all agree that education and training are central to dealing with both code and enforcement issues and joint training between building and fire officials should be encouraged and supported.

II. THE ASSESSMENT PROCESS

The purpose of the assessment was to consider the various issues related to the Florida Building Code and Florida Fire Prevention Code in regards to duplicate code provisions and the overlapping authorities of the building and fire officials charged with duties ranging from permitting to plans review, through inspections and approving buildings for occupancy. Interviewees were asked to identify what they consider to be the key issues related to the technical and jurisdictional aspects from the design, review, and enforcement of the codes, what were some acceptable options from their perspectives, and what role they felt the Commission and State Fire Marshal should play in any process convened to consider these issues.

This assessment was conducted by Jeff Blair of the Florida Conflict Resolution Consortium, a center based at Florida State University. Additional information on the assessment interviewer can be found in Appendix II of this report.

A. Conduct of the Assessment

The assessment interviewer met initially with Chairman Raul L. Rodriguez, AIA and DCA staff to discuss the parameters of the assessment and to identify potential interviewees. Subsequently, the assessment interviewer met with Chief Jim Goodloe of the Division of State Fire Marshal to get the Division’s perspective. Additional interviewees were suggested by those interviewed during the course of the project. Most interviews were conducted by phone and a meeting was held with the Joint Building Fire TAC. In addition, the assessment interviewer reviewed relevant
documents, including legislation. A list of persons interviewed is provided in Appendix I of this report.

B. Interview Questions

- Are you aware of the purpose behind this Building Fire Code assessment?
- How does this issue affect and/or impact your interests?
- From your perspective what are the key issues that should be considered in any review/process regarding Duplicate Code Provisions and Overlapping Authority/Responsibilities?
- Where are the problems?
- Should there be any duplication between the codes? (does this provide flexibility to local jurisdictions); or, should the issues be separated and enforced along strict divisions of authority?
- What should the trigger be?
- Any suggestions for enhancing the current system (code duplications and roles/enforcement)?
- What would be the best format to review the issues and make recommendation?
- Should the Issues be Separated between Code and Authority?
- What do you see as the role of the Florida Building Commission?
- What do you see as the role of the State Fire Marshal?
- Who else should I talk to in order to get a complete picture of the situation?

III. FINDINGS OF THE ASSESSMENT BY ISSUES

Statutory Considerations
Interviewees agreed that the laws regarding conflicts between the Florida Building Code (FBC) and the Florida Fire Prevention Code (FFPC) are clear, and the process for resolving conflicts is now in place with the formation of the Joint Building Fire Technical Advisory Committee, constituted between the Florida Building Commission and Division of State Fire Marshal during the development of the 2001 Florida Building Code.

In addition, the authority to enforce the Codes is a function of the scopes of either the FBC or the FFPC and the technical provisions therein. In general the resolution of the technical and jurisdictional aspects of the two codes can be reviewed and resolved within the existing structure and would likely not require additional statutory considerations.

Below are cited the statutory references from Chapter 633—Fire Prevention and Control, and Chapter 553—Building Construction Standards, that relate to resolving conflicts between the FBC and the FFPC:

633.01 (5) It is the intent of the Legislature that there are to be no conflicting requirements between the Florida Fire Prevention Code and the Life Safety Code authorized by this chapter and the provisions of the Florida Building Code or conflicts in
their enforcement and interpretation. Potential conflicts shall be resolved through coordination and cooperation of the State Fire Marshal and the Florida Building Commission as provided by this chapter and part IV of chapter 553.

553.72 (5) It is the intent of the Legislature that there be no conflicting requirements between the Florida Fire Prevention Code and the Life Safety Code of the state and other provisions of the Florida Building Code or conflicts in their enforcement and interpretation. Potential conflicts shall be resolved through coordination and cooperation of the State Fire Marshal and the Florida Building Commission as provided by this part and chapter 633.

553.73 (1)(d) Conflicting requirements between the Florida Building Code and the Florida Fire Prevention Code and Life Safety Code of the state established pursuant to ss. 633.022 and 633.025 shall be resolved by agreement between the commission and the State Fire Marshal in favor of the requirement that offers the greatest degree of lifesafety or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction. If the commission and State Fire Marshal are unable to agree on a resolution, the question shall be referred to a mediator, mutually agreeable to both parties, to resolve the conflict in favor of the provision that offers the greatest lifesafety, or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction.

The issue of duplicate technical code provisions has three main components: whether there should be any overlap, resolving conflicts where there is overlap, and whether to further partition the codes by removing provisions from one and referencing the other.

In general, interviewees agreed that there is a need to maintain some level of duplication between the Codes in order to ensure that both documents are used in conjunction with each other for the design, permitting, inspection, and enforcement of the appropriate codes in order to provide safe and structurally sound buildings. At a minimum each codes should reference the other where appropriate to ensure they are used together. However, beyond this general level of agreement there is a broad range of divergent views expressed by the interviewees representing the various interest groups affected by this issue.

All agree that conflicts where they exist should be resolved, and this should be a priority for the Commission and State Fire Marshal. Some maintain this is all that should be done and others prefer a thorough review of the two documents with consideration given to further partitioning of the FBC and FFPC.

On the issue of partitioning, or further segregation of the codes by replacing the requirements of one code in favor of the requirements of the other code, there is only agreement that a review should be made and the issue considered. The views range from no further partitioning, to additional partitioning, to a total partitioning with only references to the other code. As an example there is support, especially among design professionals, for partitioning the codes in
favor of occupancy issues being handled exclusively by the Florida Building Code and life-safety provisions—such as those found in Chapter 10 “Means of Egress”—being handled exclusively by the Florida Fire Prevention Code. Again, each code would reference the other within the appropriate sections of each.

**Authority/Jurisdictional Overlap**

There is some general level of agreement, although not universal, that the powers of the building and fire officials are clearly outlined within the scopes of the FBC and FFPC, and authorized by statute. How these duties and authorities are sorted out at the local level is another issue, and varies greatly by jurisdiction.

In general, most jurisdictions have developed lines of communication between their building and fire officials with clear guidance on how permitting, plans review, inspections, and enforcement functions are handled. In fact, building and fire officials have worked together to develop and implement cooperative agreements on how to more efficiently conduct their respective responsibilities. This varies by jurisdiction and is a function of having sufficient resources to hire or contract with the appropriately licensed personnel for building and fire functions, and the organizational and political commitment necessary to implement an efficient process.

Nevertheless, since there are many areas of potential overlap ranging from permitting, plans review, fee collection, inspections, enforcement, to final approval of the building for occupancy, there is certainly room for confusion within and between jurisdictions. These overlaps affect many elements of the life-safety components of buildings and include the review and inspection of electrical, mechanical, plumbing, and fire.

Industry members complain of inconsistent interpretations, technical requirements, and inspection and enforcement between jurisdictions, even within the same county. In addition, many believe that in the cases where the system is not working, this is largely a function of personality conflicts, concern over turf and power, and a general lack of cooperation and collaboration that must be corrected by the affected local jurisdictions.

Irrespective of the above considerations, and acknowledging that local jurisdictions remain largely responsible for the efficacy of their local coordination efforts and functions, there is still a perceived desire and a sufficient level of support for reviewing the two codes and developing clearer lines of demarcation, by providing guidance on which aspects are handled by the building or fire official. Again, most believe that in the final analysis, this remains an issue of coordination and cooperation best resolved at the local level. Additionally, many expressed a concern that any further defining of authority could restrict and prevent local jurisdictions from making the most efficient use of limited personnel.

It should be noted that many, including building and fire officials, believe that having “two sets of eyes”, with overlapping responsibilities is a positive thing and offers a greater level of protection to the public. Fire officials note that they remain responsible for the safety of buildings after they has been constructed and occupied, and have a vested interest in ensuring buildings are constructed with the proper life-safety requirements.
In general, any review and clarification of duties and authorities would need to pay close attention to the needs of local government to ensure that maximum flexibility for the utilization of personnel is maintained within any proposed refinements to the existing system.

**Training and Education**
This is the one area that enjoyed universal agreement from all interviewees, representing all interest groups. The level of support for additional trainings and education regarding interpreting and enforcing the FBC and the FFPC ranged from, this is all that should be done to this should be a component of a more comprehensive review of the existing system.

Interviewees expressed a desire to see more co-training with building and fire officials participating together. Trainings could be developed that highlight those elements of both codes where there is the greatest level of confusion. The suggested goal is to provide an educational venue where conflicts are highlighted and consistent interpretation and enforcement across disciplines is encouraged.

**Licensing Boards**
Many stated that an effort should be undertaken to work with the various licensing boards and regulating agencies to coordinate training and education needs, and to ensure that the appropriate building and fire disciplines have the requisite knowledge regarding their authorities and duties related to enforcing the fire protection and life-safety requirements of the FBC and FFPC.

**Role of the Florida Building Commission and Division of State Fire Marshal**
Interviewees generally agreed that any project to review duplicate code provisions and issues related to overlapping responsibilities between building and fire officials should be a joint project with the Florida Building Commission and the Division of State Fire Marshal.

**Joint Building Fire TAC**
There is an existing Committee—The Joint Building Fire TAC—constituted within the Florida Building Commission and the Division of State Fire Marshal. This Committee is comprised of the Florida Building Commission’s Fire Technical Advisory Committee and the State Fire Marshal’s Florida Fire Code Advisory Council, and was organized to harmonize the Building and Fire Codes during the development of the Florida Building Code. This group continues to meet on an ongoing basis to discuss issues related to the two codes and enjoys support from the building and fire perspectives. Interviewees agreed that this group, with its broad stakeholder representation, is the logical body to consider recommendations related to the review of duplicate code provisions and issues related to overlapping responsibilities between building and fire officials.
IV. ANALYSIS OF FINDINGS

There is a spectrum of views, on a range of issues related to the enforcement and interpretation of the fire prevention and life-safety requirements of the Florida Building Code and the Florida Fire Prevention Code. This manifests in two key areas: the duplication of the technical code requirements within the two codes, and the overlapping authority and responsibilities inherent in the review and inspection requirements necessary to ensure compliance with the life-safety and fire prevention provisions of the codes.

There is agreement on the need to maintain some level of overlapping technical provisions within the codes, at a minimum to ensure they are both used together for the design, permitting, inspection, and final approval of buildings prior to occupancy. In addition, consideration has to be given to the ongoing life-safety requirements of buildings once they are occupied. In short, how will the public best be served in this regard.

In regards to the technical provisions, a review should be undertaken to eliminate existing conflicts, and consider whether further partitioning of the code—that is replacing the requirements of one code in favor of the other and referencing the applicable sections—would serve to clarify the requirements of the codes as well as the authorities and duties invoked within the scope of the respective codes.

The issue of further defining duties, authorities, and responsibilities, should be reviewed but must be considered in the context of maintaining flexibility and authority for local governments to manage their personnel in an efficacious manner consistent with their local policies.

Education and training will be the key to the success of any effort designed to enhance the coordination and consistency of code requirements and interpretations between building and fire officials in the various jurisdictions around the State. In general, the laws and code are reasonably clear and most changes should focus on education and training with an emphasis on conducting co-trainings with and between building and fire officials. Attention should be given to areas of ongoing conflicts, misunderstandings, and inconsistent interpretations with a focus on providing clear guidance with the support of the building and fire officials and their respective associations.

Finally, the issue of venue will have to be addressed. The Florida Building Commission’s and Division of State Fire Marshal’s Joint Building Fire Technical Advisory Committee is an existing forum with broad stakeholder representation in the building and fire arenas, and a proven commitment to consensus-building on important policy issues of impact to the entire State of Florida regarding fire prevention and life-safety. To this end, the Commission and Division of State Fire Marshal could convene a facilitated process to fully air the issues and options, and develop a package of recommendations for consideration by the Commission and State Fire Marshall to enhance the review, enforcement, and interpretation of the codes, as well as enhancements to the education and training system required to educate the building and fire officials charged with the implementation of the entire system related to fire prevention and life-safety, and necessary to protect the safety and welfare of the citizens and property within the state of Florida.
V. RECOMMENDATIONS

**Convene Joint Building Fire TAC.** The Commission and State Fire Marshal convene the Joint Building Fire TAC to work with stakeholders within a facilitated consensus-building process to identify the issues, evaluate alternatives, and develop recommendations for:

➢ Resolving existing conflicts between the Florida Building Code and Florida Fire Prevention Code.

➢ Review and decide whether any additional partitioning of the codes is warranted.

➢ Review and decide whether to provide further lines of demarcation for the authorities and duties of the building and fire officials regarding fire prevention and life-safety enforcement.

➢ In conjunction with the building officials and fire officials associations, consider developing or refining a process for fostering the identification and ongoing discussion and resolution of issues that consistently create confusion and inconsistent interpretations, and make it available to local jurisdictions throughout the State.

➢ Make recommendations on training and education topics and issues that will foster closer cooperation and coordination, as well as enhance consistency within and between the disciplines charged with the enforcement and interpretation of the fire prevention and life-safety provisions of the Florida Building Code and the Florida Fire Prevention Code.

➢ Communicate with the respective licensing boards and building and fire official associations, regarding the development and coordination of training and educational opportunities for cross-training between the building and fire disciplines to enhance and clarify the existing fire protection and life-safety system.
APPENDIX I

Interview Participants

In conducting the assessment, the interviewer sought individual and group interviews with those stakeholder/interest groups who are affected by issues related to the overlapping technical provisions and/or issues of authority and jurisdictions regarding the Florida Building Code and Florida Fire Prevention Code. Below is a list of persons participating in the interview process and their affiliations. Many of the interviewees represent multiple stakeholder/interest groups but are listed under only one of their affiliations. If an interviewee is listed twice it is because they were interviewed as part of a group and again individually.

1. FLORIDA BUILDING COMMISSION
   Raul L. Rodriguez, AIA
   Richard Dixon
   Mo Madani
   Jim Richmond

2. DIVISION OF STATE FIRE MARSHAL
   Jim Goodloe, Chief
   John Calpini

3. FIRE TAC (Florida Building Commission)
   John Calpini
   Hamid Bahadori
   Nick D’Andrea
   Dale Greiner
   Jeff Gross

4. FLORIDA FIRE CODE ADVISORY COUNCIL (State Fire Marshal)
   Tony Apfelbeck
   Ray Cicero
   Jeff Collins
   Jon Hamrick
   Brad Schiffer
   Richard Seidel
   Andrew Valente
5. DESIGN PROFESSIONALS
   Architects
   Raul L. Rodriguez, AIA
   Luis Vila

   Fire Protection Engineers
   Hamid Bahadori
   Andrew Valente

6. EDUCATION FACILITIES
   Tom Deckert
   Jon Hamrick

7. LOCAL GOVERNMENT
   Herminio Gonzalez
   George Wiggins

8. BUILDING OFFICIALS
   Joe Crum
   Nick D’Andrea
   Dale Greiner
   Med Kopczynski

9. FIRE OFFICIALS
   Dennis Marshall
   Kevin Carrier

10. FIRE PROTECTION INDUSTRY
   Buddy DeWar
    Pete Schwab
    Bob Neely
    Roy Pollack
    Bob Worthy
    David Kinchla

11. HOME BUILDERS
    Jack Glen
APPENDIX II

Feasibility Assessment Interviewer

"The purpose of the Consortium is to serve as a neutral resource to assist citizens and public and private interests in Florida to seek cost-effective solutions to public disputes and problems through the use of alternative dispute resolution and consensus building." 

--F.S. 240.702

Our mission is to bring Floridians together to learn to transform unproductive conflict into cost-effective, sustainable solutions. The Consortium serves as a catalyst to create supportive policies and to help educate statewide on the appropriate use of mediation, facilitation and other collaborative problem-solving approaches to resolve a wide range of public policy issues.

With the support of Florida State University and the Florida Legislature, the Consortium provides dispute resolution service, education, training and research to build a broader understanding of the value of collaborative approaches and create a cadre of citizens, leaders, professionals and students skilled in using collaborative consensus building and conflict resolution processes.

The Consortium offers neutral technical assistance to a wide range of professionals, agency staff and private citizens and organizations engaged in public problems throughout Florida. We help to design and implement efforts for intergovernmental collaboration, community and public problem-solving, and land-use and environmental dispute resolution. We also provide referral services connecting stakeholders and potential users with trained dispute resolution professionals.

Jeff Blair is faculty at Florida State University, and serves as Associate Director for the Florida Conflict Resolution Consortium. His work for the Consortium has included facilitation, process design, strategic planning, and consensus-building on multiple public policy initiatives. He has worked with state and local government representatives to design and implement collaborative approaches to planning, rule making, and dispute resolution with an emphasis on public participation in the design and implementation of policy. He has facilitated hundreds of rule development workshops and conducted negotiated rulemakings for various state agencies. In addition, he teaches numerous classes and conducts trainings in various dispute resolution topics for FAU, FIU, MDCCC, and various local governments. During the past seven years he has served as the Consortium's project director for the Florida Building Commission, a 23 member Governor appointed stakeholder group who successfully created, implemented, and maintains the new statewide Florida Building Code. Other ongoing projects include serving as facilitator and conflict resolution consultant for state agency stakeholder advisory boards such as the Pest Control Enforcement Advisory Council and the Florida Coordinating Council on Mosquito Control. Mr. Blair has provided facilitation, planning, and process design for numerous non-profit organizations since 1977.
APPENDIX III

Meeting of the Joint Building Fire Technical Advisory Committee
and the Florida Fire Code Advisory Council
Prime Osborn Convention Center – Room 204/205
Time: 1-3 p.m.
1000 Water Street, Jacksonville, Florida
February 10, 2005

Committee members present from the Joint Building/Fire TAC:
Jeff Gross, Dale Greiner, Tony Apfelbeck, Jon Calpini, Hamid Bahadori, and Nick D’Andrea.

Agenda. Review and discuss the overlap of authority within the Florida Fire Prevention Code &
the Florida Building Code:

The Joint Committee discussed the issue at hand by first reviewing the staff analysis delineating
the technical overlap between the two Codes and then provided the following issues and
concerns with regard to overlap of authority within the two codes:

- Code application problem.
- Lack of education necessary to clarify authorities and fringing issues.
- Ch. 553, FS is followed all the time and we see no problem.
- Conflicts occur when parties are not working together.
- Conflicts within the codes have been resolved. The problem is redundancy (two
  people doing the same thing). The issue is a business perspective.
- It would be good to have all the requirements in one Code.
- The problem at hand is common when the authority is divided between two
  jurisdictions. Single jurisdictions deemed to have no problem.
- The problem is two people doing the same thing in the field.
- FFFC must be enforced by the Fire Marshal.
- The technical provisions of the codes are not the problem. We should focus on
  resolving the request for Dec. Statements.
- The Law is very clear with regard to license requirements and responsibilities.
- You need to have two sets of eyes to inspect and review projects.
- You need the two authorities because each entity is looking at different parts of the
  project.
- You need to get rid of redundancy so that only one person doing one thing.
- Removing and stripping requirements for codes is a difficult task.
- Recommend not dealing with the technical issues at this time and should first focus
  on training and resolving requests for Dec. Statements.
- The issue is to define the line of responsibilities between the two authorities.
- We need to work together. Redundancy is not a bad thing. Working together is what
  serves the people best.
- At the end (after CO), the building is the responsibility of the Fire Marshal.