FLORIDA BUILDING COMMISSION

ALTERNATIVE PLANS REVIEW AND INSPECTIONS WORK GROUP

FACILITATOR’S REPORT OF THE JUNE 3, 2004 MEETING III (PHASE II)

Tampa, Florida

Meeting Design & Facilitation By

Florida Conflict Resolution Consortium

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OVERVIEW OF WORK GROUP’S KEY ACTIONS

THURSDAY, JUNE 3, 2004

Agenda Review and Approval
The Work Group voted unanimously, 11 - 0 in favor, to approve the agenda as presented. Following are the key agenda items approved Meeting III:

- To identify/review, refine, and consensus rank options for each issue
- To test for preliminary consensus on options enjoying a high level of agreement
- To consider public comment
- To identify needed next steps and agenda items for next meeting

Member Attendance
The following members attended Meeting III:


DCA Staff Attendance
Rick Dixon and Jim Richmond.

Facilitation
The meeting was facilitated by Jeff Blair.

Review and Approval of April 2, 2004 Meeting Report
The Work Group voted unanimously, 11 - 0 in favor, to approve the summary report as amended. (Amendments were editorial and not substantive)
RESULTS OF OPTIONS REVIEW AND CONSENSUS RECOMMENDATIONS

A. INSURANCE

Work Group Consensus Recommendation
Require private provider to submit to the local jurisdiction a certificate of their insurance coverage (certificate of insurance), pursuant to the requirements found in F.S. 553.791 (15) prior to providing services within the jurisdiction.

Work Group Actions:
Motion— The Work Group agreed unanimously to approve this option as a recommendation.

Additional Proposals Considered
Raise tail coverage requirements from 5 years to 15 years.
Work Group Actions:
Motion— The Work Group voted 3 – 8 in support for this proposal. Motion fails to reach consensus as a result of not achieving the 75% approval requirement.

The Work Group discussed advising the Commission that tail coverage is liability coverage for the private provider, and not a warranty for the owner.
No action was taken on this issue.

B. APPEAL RIGHTS OF PRIVATE PROVIDERS

Work Group Consensus Recommendation
The Work Group unanimously agreed in concept to add a new section to 553.791 that clarifies the law does not limit the authority of the local jurisdiction to stop work as authorized by provisions of other law or local ordinance.

Work Group Actions:
Motion— The Work Group agreed unanimously to approve this concept as a recommendation once specific language is crafted.
C. AUDIT REQUIREMENTS

Work Group Consensus Recommendation
Revise. F.S. 553.79 (17) “Each local building code enforcement agency shall develop and maintain a process to audit the performance of building code inspection services by private providers operating within the local jurisdiction. Work can proceed once inspected and approved by the private provider consistent with the notice given pursuant to 553.791(8).

Work Group Actions:
Motion— The Work Group agreed unanimously to approve this option as a recommendation.

Additional Proposals Considered

Allow suspension of a private provider by local building official.

“A local building official may suspend the right of any private provider to provide building code inspection services within the jurisdiction of the local building official if in the reasonable opinion of the local building official (i) the private provider is repeatedly failing to conduct building code inspection services in the manner required by law or rule, (ii) the private provider is not in compliance with the requirement of §553.791, or (iii) presents a danger to persons or property in the manner in which they are providing building code inspection services. In the event the local building official exercises such authority, notice shall be given to (i) the private provider, (ii) the authorized representative of the private provider, if applicable, and (iii) the agency or body licensing the private provider. In addition to such notice the local building official shall file a complaint with the applicable licensing body. Such suspension shall remain in effect until the sooner of (i) the governing body licensing the private provider has adjudicated the matter, or (ii) the local building official terminates such suspension. The authority granted to the local building official is in addition to all other powers. Any owner using the services of a suspended private provider may choose to use another private provider, or the services of the local building official to complete the building code inspection services for such owner’s property.”

Work Group Actions:
Motion— There was not support for this proposal.
D. DOCUMENTATION REQUIREMENTS

Work Group Consensus Recommendation
The Building Official may at their discretion, decide whether to require submittal of daily reports. The daily reports shall be posted at the job site as currently required, and must be submitted as a part of the certificate of compliance package.

Work Group Actions:
Motion— The Work Group agreed unanimously to approve this option as a recommendation.

E. BUILDING OFFICIALS’ OVERSIGHT AUTHORITY

The Work Group did not achieve consensus on any changes to this issue. No recommendations for changes to current provisions in §553.791.

Additional Proposals Considered
If there are repeated or flagrant violations by a specific private provider, the Building Official can file a complaint to the appropriate licensing board, and the licensing board would expedite a probable cause investigation.

Work Group Actions:
Motion— The Work Group voted 2 – 9 in support for this proposal. Motion fails to reach consensus as a result of not achieving the 75% approval requirement.

F. PRIVATE PROVIDERS’ RESPONSIBILITY TO BUYER

The Work Group did not achieve consensus on any changes to this issue. No recommendations for changes to current provisions in §553.791.

Additional Proposals Considered
Add explicit liability provision similar to §553.84
Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of the private provider’s failure to perform building code inspection services in accordance with applicable law and the applicable codes. The insurance required to be maintained by the private provider shall be for the benefit of such persons or parties. The prevailing party in any such action will be entitled to recover their reasonable attorney’s fees and costs.
**Work Group Actions:**

**Motion**— The Work Group voted 5 – 5 in support for this proposal. Motion fails to reach consensus as a result of not achieving the 75% approval requirement.

Add explicit liability provision similar to §553.84 Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of the private provider’s negligence in accordance with applicable law and the applicable codes shall have a cause of action.

**Work Group Actions:**

**Motion**— The Work Group voted 6 – 5 in support for this proposal. Motion fails to reach consensus as a result of not achieving the 75% approval requirement.

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**G. CONTRACTOR LIABILITY**

The Work Group did not achieve consensus on any changes to this issue. No recommendations for changes to current provisions in §553.791.

**H. CONFLICTS OF INTEREST**

The Work Group did not achieve consensus on any changes to this issue. No recommendations for changes to current provisions in §553.791.

**I. LOCAL QUALIFICATIONS FOR THE PRIVATE PROVIDER**

**Work Group Consensus Recommendation**

Revise 553.791 (14) “No local enforcement agency, local building official, or local government may adopt or enforce any laws, rules, procedures, or standards more stringent than those prescribed by this section. Local enforcement agencies, local building officials, local governments, or other authorities having jurisdictions may establish a system of registration for the Private Providers and Duly Authorized Representatives working within their jurisdiction, whereby staff would verify statutory compliance with the insurance requirements of 553.791 (15) and the licensure requirements of 553.791 (1) (e) & (g).”

**Work Group Actions:**

**Motion**— The Work Group voted unanimously, 11 – 0 in favor, to approve this option as a recommendation.
J. BUYER'S CHOICE AND DISCLOSURE TO BUYER

The Work Group did not achieve consensus on any changes to this issue. No recommendations for changes to current provisions in §553.791.

Additional Proposals Considered

Provide for Notice to Purchasers

“With respect to any residential dwelling which is owned by a contractor (§ 558.002. Definitions "Contractor" means any person, firm, partnership, corporation, association, or other organization that is legally engaged in the business of designing, developing, constructing, manufacturing, selling, or remodeling dwellings or attachments thereto.) or a subsidiary, or affiliated person or entity of the contractor at the time that building code inspection services are performed for such dwelling, then at or prior to the first conveyance of such dwelling to a consumer, the contractor shall cause a notice substantially in the following form to be furnished to the consumer:

“The plans for your home were reviewed by [name of local building official OR name and address of private provider] and inspected by [name of local building official OR name and address of private provider]. Any questions or comments regarding the approval of your building plans and inspections should first be discussed directly with your contractor; however, if you still have questions you may contact the plan reviewer at [insert phone number of plan reviewer] or the inspector [insert phone number of inspector].”

In addition if any of the building code inspection services were provided by a private provider, then the notice shall also include the name, address and phone number of the insurance company issuing the insurance policy required under §553.791(15).

Work Group Actions:

Motion— The Work Group voted 2 – 9 in support for this proposal. Motion fails to reach consensus as a result of not achieving the 75% approval requirement.

K. RE-INSPECTION/S ON THE SAME DAY AND NOTIFICATION ISSUES

The Work Group did not achieve consensus on any changes to this issue. No recommendations for changes to current provisions in §553.791.
L. TIME FOR PRIVATE PROVIDERS TO NOTIFY THEIR INTENT TO CONDUCT INSPECTIONS ON A PROJECT

Work Group Consensus Recommendation
Revise F.S. 553.791 (4) “A fee owner using a private provider to provide building code inspection services shall notify the local building official at the time of permit application on a form to be adopted by the commission. This notice shall include the following information:...”
(4)(a) Exception: A fee owner using a private provider to provide only the inspection portion of the building code inspection services shall notify the local building official at the time of permit application or seven (7) business days prior to the first scheduled building department inspection.”

Work Group Actions:
Motion— The Work Group voted unanimously, 10 – 0 in favor, to approve this option as a recommendation. There was one abstention. Legal will craft exact language and location in the law.

M. JOB SIZE RESTRICTIONS FOR CHAPTER 468 PRIVATE PROVIDERS

Work Group Consensus Recommendation
Change definition of “Private provider” to allow any person licensed under Chapter 468 as a Building Code Administrator to perform services as a private provider subject to the limitations of the license/s they hold.

Work Group Actions:
Motion— The Work Group voted 10 – 1 in favor, to approve this option as a recommendation. Motion passes.

Additional Proposals Considered
Change definition of “Private provider” to allow any person licensed under Chapter 468 as a Building Code Administrator to perform services as a private provider.

Work Group Actions:
Motion— The Work Group voted 8 – 3 in support for this proposal. Motion fails to reach consensus as a result of not achieving the 75% approval requirement.
J. LOCAL FEES/REFUNDS WHEN A PRIVATE PROVIDER IS USED

The Work Group did not achieve consensus on any changes to this issue. No recommendations for changes to current provisions in §553.791.

Additional Proposals Considered

Allocate a portion of fees when private providers are used for audit and training purposes, but do not reduce the fees.

Work Group Actions:
Motion— The Work Group voted 5 – 5 in support for this proposal. Motion fails to reach consensus as a result of not achieving the 75% approval requirement. There was one abstention.
ATTACHMENT 1

MEETING EVALUATION RESULTS

May 11, 2004—Tampa, FL

0 TO 10 RATING SCALE WHERE A 0 MEANS TOTALLY DISAGREE AND A 10 MEANS TOTALLY AGREE

1. Please assess the overall meeting.
   - 8.5 The background information was very useful.
   - 9.7 The agenda packet was very useful.
   - 9.1 The objectives for the meeting were stated at the outset.
   - 8.8 Overall, the objectives of the meeting were fully achieved.
   - 8.9 Options identification and evaluation.
   - 8.8 Preliminary consensus recommendations.
   - 7.5 Public comment.
   - 8.2 Next steps and agenda items for next meeting.

2. Please tell us how well the facilitator(s) helped the participants engage in the meeting.
   - 7.9 The participants followed the direction of the facilitator.
   - 8.9 The facilitator made sure the concerns of all participants were heard.
   - 8.6 The facilitator helped us arrange our time well.
   - 9.0 Participant input was documented accurately.

3. What is your level of satisfaction with the meeting?
   - 8.4 Overall, I am very satisfied with the meeting.
   - 9.2 I was very satisfied with the services provided by the facilitator.
   - 8.0 I am satisfied with the outcome of the meeting.

4. What progress did you make?
   - 9.3 I know what the next steps following this meeting will be.
   - 9.3 I know who is responsible for the next steps.

5. Do you have any other comments that you would like to add? We are very interested in your comments. Please use the back of this page.
   - Facilitator needs to control participants that purposely consume too much time on useless tangents and pointless discussion.
ATTACHMENT 2

Alternative Plans Review and Inspection Work Group Attendance

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