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**RE: Florida Building Code-Existing 2023**  
**Existing Building Inspection Workshop (EBIWG) December 4, 2023**

Dear Mr. Madani:

Thank you for providing me with the Draft Text and Amendments Acceptability Ranking Worksheet as of meeting # 12 December 4, 2023. My discussions with you were focused on the terminology regarding the terms “Perform” and “responsibility”. These terms will be discussed within the following document.

I have taken the liberty of reviewing the documents you sent me and am providing you with my response to all of the items that are being considered. You understand that building design, building inspections and as consultant for code provisions have been paramount during my experience since the 1970’s. While I am a member of the Florida Board of Professional Engineers (FBPE), the recommendations and response included in this letter are not with respect to any opinions of the FBPE but from my own practice as a professional engineer engaged in building design, inspections, and code implementation. I understand that the final Workshop meeting is in March of 2024. Therefore, if you have any questions or wish me to respond to items I have commented on, please contact me. My comments are referenced by page numbers of the Draft Text.

## **John Pistorino Comments**

Page 2, 3 & 4 No Comment

Page 5 Agree with recommendations.

Page 6

Item

4-A Proposed New Section 113.1

113.1 Application. The application of this section is limited in scope to buildings that are required to comply with the requirements of Chapter 18.

### **JCP Comment:**

#1 Why limit scope only to Chapter 18 which is focused on Milestone? It should apply to all buildings.

#2 If it is limited to Chapter 18 then the title of Chapter 18 should be included since this is the first mention of Milestone Inspections in the Existing Building Code.

Item

113.6 Failure to Timely Submit the Milestone Inspection Report

### **JCP Comment:**

This should be moved to Chapter 18

Page 7

Item

113.7 Revocation

### **JCP Comment:**

This section should refer to all buildings, not just milestone. Recommend the word “milestone” be removed. I agree with the comment “Prefer that it apply to all not just MI buildings”

Item

5-B 115.1 Application. The application of this section is limited in scope to buildings that are required to comply with the requirements of Chapter 18.

**JCP Comment :**

Why is this limited in scope to buildings under Chapter 18. ? This section includes Unsafe conditions which includes many issues not covered in Chapter 18.

Item

5-C 115.2 Unsafe conditions.

**JCP Comment:**

The bulk of the text is on page 8 . However in the text it states “*structural deterioration identified in a phase two inspection.*” This is not necessary as it should apply to all buildings and the definition of unsafe includes many issues not in Chapter 18.

Recommend removing the words “ *phase two*”.

Item

5-D 115.4

**JCP Comment:** Agree with this provision.

Item

5-E 115.6

**JCP Comment:** Agree with this provision.

Page 9

Item

Comments:

**JCP Comment:** Disagree that 115.6 should be limited to milestone inspections .

Item

Section 202 Milestone Inspection

**JCP Comment:**

In general, I agree with the definition, however I am surprised that the last sentence is included in the definition. “ *The milestone inspection services may be provided by a team of professional with an architect or engineer acting as a registered design professional in responsible charge with all work and reports signed and sealed by the appropriate qualified team member.*’

While I agree with the last sentence, I think it strange to be included in the definition.

Item

6-A Proposed Amendment

**JCP Comment:**

I don't think the proposed amendment captures the full intent of the Milestone inspection and therefore I recommend it not be substituted for the first definition.

Page 10

Item

6-B milestone inspector.

**JCP Comment:**

The definition of architects and engineers is well established with their duties, responsibilities, and expertise for the public benefit. I do not think it is in the public's interest to create a new name for an individual such as "Milestone Inspector".

Item

6-C Proposed Amendment remove the words "*as it affects the safety of such building*"

**JCP Comment:**

I agree with the removal of those words as being redundant.

Item

6-D Proposed Amendment

**JCP Comment:**

I agree with the proposed amendment.

Page 11

Item

6-E Proposed Amendment

**JCP Comment**

While I agree with the rewording, I recommend that the last sentence include the words

“.....*team member* who is responsible for the specific sections of the report”.

The report must be signed and sealed by all or any of the engineers or architects who may have a specialty or who have focused on specific aspects of the report such as laboratories and engineers involved in fire safety or other specialties. In doing so the signing and sealing must indicate the particular information or section in the report that the professional is attesting to.

The wording refers to a *team of professionals with an architect or engineer acting as a registered design professional in responsible charge....* This is the first reference to the term “Design Professional” that is used throughout many other sections. I think the term “ Design Professional” should be clarified.

Item

6-F) Proposed Amendment Substantial Structural Deterioration

**JCP Comment**

The inclusion of the definition of the term *Dangerous* is overly broad as it infers any attachment on the structural frame of building including stucco , railings, or ornamentation as denoted in the definition of *Dangerous*.

The term *ornamentation* that is part of the definition of *Dangerous* can be interpreted as decorative or other items attached to a building exterior. Engineers/architects observing the exterior cladding of a building who happen to identify attachments that may be unstable or could result in a imminent collapse must be included in a milestone report.

However, the use of the term *Dangerous* as defined would require engineers to make detailed inspections of all aspects of the building, not just major structural components. This could lead to more time and higher costs to the Association to satisfy the Code requirement while the intent is to identify Substantial Structural Deterioration.

Page 12

Item

6-G Proposed Amendment

**JCP Comment**

See comment above in 6-F regarding the definition of *Dangerous*.

Page 13

Item

Chapter 18

**JCP Comments**

Agree with provisions on page 13

Page 14

Item

2-B Proposed Amendment

**JCP Comments**

Agree with Amendment

Page 15

Item

2-C Proposed Amendment

**JCP Comments**

Agree with proposed amendment and comment discussion.

Item

3-A Proposed Amendment to Strike Paragraph

**JCP Comments**

Agree to strike as this is not a building code item to be enforced by the Building Official.

Page 16

Item

4-B Proposed Amendment

**JCP Comments**

The engineer/architect should be aware of all previous structural permits approved on a building before beginning the inspection if the permit information is available from the Building Official.

The definition of Milestone Inspection in Section 202 has words stating “ *The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the firesafety code.*” This statement conflicts with the proposed amendment. The requirement of a Phase 2 should only be made by the engineer/architect performing the inspection based upon observations made. The fact that unpermitted work exists may not necessarily imply or require a Phase 2 inspection. I recommend the proposed amendment not be included.

Page 17

Item

4-C Proposed Amendment

**JCP Comments**

The issue consists of replacing the words “responsible for” with the words “who performed” is recommended by DBPR staff. The justification is in the comment section wherein a potential conflict with the provision of the law is stated. The Senate Bill 154 currently under revisions for amending F.S.718.103, 718.113, 719.103 and 553.899 and other sections utilize the words “perform or performed” as actions to be taken by various entities including associations as well as engineers and architects throughout many provisions in the legislation.

It is well understood that engineers will perform work in any manner they deem necessary as long as they follow rules set out by the FBPE. This will include field representatives of the engineer who are under the direction and supervision of the engineer. The qualifications of such employees are determined by the engineer. The code should not dictate how engineers perform their work. This is a standard of practice within the engineering profession with a lead or engineer-of-record for the report or design professional taking final and full responsibility with his or her signature and seal. Therefore, the act of performing such tasks as now being mandated by the legislation includes the responsibility that engineers will normally be expected to incur.

The word *performing* in itself does not indicate that the individual is going to be held responsible. The use of the language ***responsible for*** the milestone inspection gives greater significance to the intent of what is to be accomplished which is to ensure buildings are structurally safe for occupancy.

The DBPR staff interprets the law as requiring the actual design professional to be physically on site performing such milestone inspections. This is not practical as the larger buildings require multiple individuals with various expertise to perform the inspections and assessment. It will be very difficult for a single individual to perform the inspections on multiple parts of a building. Therefore, in my experience of performing such inspections over the past 40 years I find it very practical to use my qualified staff for which I take full responsibility. As such, the inspections are performed more quickly, more precisely and the reports made available on a timely basis.

Therefore, I am more comfortable with the intent of the legislation being satisfied keeping the wording of ***responsible for*** in the various sections such as 1804.1.1.1.

Item

4-D Proposed Amendment

**JCP Comment**

I agree that the last sentence should be removed as the engineer/architect will have to be relied upon to make such determinations for such locations. This type of direction should not be in the code. However, the wording is contained in the SB 154 (7) (b) describing a Phase two milestone inspection. Such intent as described in the SB is always part of an engineer/architect procedures in my experience and the decisions made as to where destructive testing on a particular building are fully within the professional's decision. It will be counter productive for claims to be made against a professional after the fact if the decision is critiqued as agreements and permission may have to be obtained in advance which may slow the process down.

Page 18

Item

1804.1.2.1 and 4-E Proposed Amendment

**JCP Comment**

As stated previously it is more in keeping with the intent of the legislation to utilize the wording ***responsible for*** instead of ***performing***.



Page 19

Item

1804.2 Duty to Report

**JCP Comments**

The first sentence utilizes the terms “ registered design professional”. Is there a definition of who that is ? This was first utilized on page 11 and under 6) Amendments to Chapter 2, Definitions. I don’t see that these terms are actually defined. Please advise wherein the Building Code such terms are utilized or defined. Perhaps they should be defined.

The first sentence also states ..... “no later than (10) days after informing the *appropriate parties of such findings.*” Since the first part of the sentence states reporting to the owner, association, and the building official, who are the *appropriate parties* ? If an engineer/architect is to be held responsible for implementing this requirement it should be further identified.

The text states that if there is *a health hazard, windstorm hazard, fire hazard or other safety hazard the professional shall report such conditions immediately.* The milestone structural inspections do not include these other hazards of which there can be many. For example, if the entry doors on any apartment does not comply with the fire/ smoke tolerances according to NFPA 80 in case of a fire that generates smoke, or a means of egress lighting issue in corridors or stairways does not comply with NFPA 101, it seems that the engineer/architect could be liable when the intent of this chapter is to identify only structural deficiencies. It is already a requirement that should an engineer/architect happen to become aware of safety hazards it must be reported. But by putting in in the code make it a mandatory requirement and greatly expands the scope of work.

Page 20

Item

4-G Proposed Amendment 1804. 2 Duty to Report

**JCP Comment**

While I agree that many items being struck are not intended in a Milestone report, the use of the term Dangerous incorporates all of those items as stated above. Perhaps the term Dangerous should be expanded to “Structurally Dangerous” for the milestone requirements.

Item

4-H Proposed Amendment

**JCP Comment**

While I agree with the additional provisions, the use of the word “local fire chief” should be substituted with the words “ fire marshal”

Page 21

Item

6-A Proposed Amendment 1806.1 Minimum Criteria

**JCP Comment**

As stated above, the term *responsible* should not be replaced with the term *who performed*.

Criteria item ( c) ..... “*identify any recommended repairs for such deterioration*”.

**JCP Comment**

Except for calling for immediate shoring that would be designed and installed by an independent contractor and engineer, long term permanent structural repairs will require design, drawings, and specifications that are more involved than what is possible in a Milestone Phase two report. The terms *recommended repairs* would generally exceed the scope of a Phase one or Phase two milestone inspection report. It is understood that this language is in the SB 154 Statute ( 8). Therefore, such *recommendations* should be interpreted to be general and not detailed in scope. Such detailed scope of recommendations would be confirmed by the appropriate process of design, bidding, and permitting.

Criteria item (e) *Recommend any remedial or preventive repair for any items that are damaged but are not substantial structural deterioration.*

**JCP Comment**

This item would call for a design and specification to be provided in the report. This is normally done as additional services and will involve possibly bidding and permitting. Therefore, only general recommendations should be made understanding that this language is in the statutes item (e). Such recommendations can take significant time and costs depending on the level of damage of the items identified and would delay the report itself.

Page 22

Item

**JCP Comments**

I have no comments on 6-B or 6-C as shown on this page.

Page 23

Item

6-D Proposed Amendment

**JCP Comments**

No comment

6-E Proposed Amendment

**JCP Comments**

Removing the term Unsafe is appropriate, however keeping the term *dangerous conditions* as defined in the Florida Building Code still involves many more issues that just structural as stated above.

Page 24

Item

6-F Proposed Amendment

**JCP Comments**

I agree the word *structural* should be added.

Item

6-G Proposed Amendment

**JCP Comments**

The discussion with respect to inconsistency is correct with respect to Unsafe conditions that will greatly enlarge the scope of work for milestone inspections that are not intended in the milestone structural provisions.

However, the discussion entitled **Existing Dangerous and Unsafe Definitions** states that Dangerous is a purely structural issue. This is not the case as the definition in the text below DANGEROUS clearly identifies words including appurtenance or ornamentation that may not be simply structural.

Page 25

Item

1806.2 Milestone inspection report distribution

**JCP Comment**

This section should be placed within Condominium rules and not in the Code. Otherwise it put a burden on the Building Official to enforce it and keep track of it.

Item

Section 1807. Milestone Inspection Form

**JCP Comment**

No comment

Page 26, 27, 28 & 29

Item

7-A Section 1807.1 Milestone Inspection Form

**JCP Comment**

There is value to using a standard report form as long as local jurisdictions can require additional information according to their unique requirements.

Item

8-A) Proposed Amendment to Add new Section 1808.3 Required Repairs or Modifications

**JCP Comment**

The addition of this amendment has merit as it is further provided in the following page for items 1 to 5. The additional recommendation made including 8-B also have merit and should be modified. 8-C and 8-D on page 28 and 29 also has merit and should be included.

Page 30

Item Section 2 Milestone Inspection Report Forms

**JCP Comment**

It seems to me that the building being inspected should be identified at the beginning or first page. Form as presented on page 30 can then follow.

Item

1-A Proposed Amendment

**JCP Comment**

The form should include all professional members of the team who will be required to sign and seal the final document together with the primary consultant.

Page 31

Item

1-B Proposed Amendment

**JCP Comment**

I agree with the proposed revised language including the statement following “ This report has been based upon the minimum milestone inspection .....

Item

1-C Proposed Amendment to statement above

**JCP Comment**

The words *to the extent reasonably possible* is a statement within the statute and is common sense as to the ability of engineers to evaluate all aspects of an existing building. These words have been used in my experience for the past 50 years in engineering reports. It does not undermine the mandatory provisions as all efforts to scrutinize an existing 30-year-old building must be reasonable.

Item

1-D Proposed Amendments to Phase 1 Milestone Inspection form.

**JCP Comment**

No comment

**END OF JCP COMMENTS**

Please call if you have any questions or wish further comment.

Very truly yours

John C. Pistorino, P.E.  
President

