



COLLIER COUNTY BUILDING REVIEW & PERMITTING  
DEPARTMENT

2800 North Horseshoe Drive Naples Florida 34104, phone 239-252-2400

April 17, 2009

Via Certified Mail

Paula Ford, Clerk of the Commission  
Department of Community Affairs  
Building Codes and Standards Office  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-0300

Re: Petition for Declaratory Statement in regards to Florida Statute 553.73, FBC 2007 Sections 105.1 and Section 105.2 – Required Permits for Water Heaters

Dear Clerk:

Please find attached, a Petition for Declaratory Statement from the Office of the Building Official of Collier County. We respectfully request a Declaratory Statement from the Florida Building Commission seeking clarification regarding whether a permit is required for the installation and replacement of Water Heaters.

Please contact me directly if you have any questions.

Sincerely,

Robert Dunn  
Building Director  
Collier County Building Department

RD/pjb

Encl/3

DC709-DEC-121  
FILING AND ACKNOWLEDGEMENT  
FILED on this date, with the designated  
Clerk, receipt of which is hereby  
acknowledged.  
  
Paula P. Ford Date 4/23/09  
Commission Clerk

**Agency Clerk**

**Department of Community Affairs**

**2555 Shumard Oak Boulevard**

**Tallahassee, Florida 32399-2100**

IN THE MATTER OF:

BUILDING OFFICIAL'S OFFICE

COLLIER COUNTY, FLORIDA

DCAD04-DEC-121  
FILING AND ACKNOWLEDGEMENT  
FILED, on this date, with the designated  
Clerk, receipt of which is hereby  
acknowledged.

*Paula P. Ford* 4/23/09  
Paula P. Ford Date  
Commission Clerk

---

**PETITION FOR DECLARATORY STATEMENT**

**BEFORE THE FLORIDA BUILDING COMMISSION**

Petitioner, Building Official's Office, Collier County, Florida, pursuant to Section 553.73, Florida Statutes, and Florida Building Code Sections 105.1 and 105.2, hereby requests a declaratory statement from the Florida Building Commission and as grounds therefore states the following:

**Petitioner's Name and Address**

Name: Robert Dunn, Building Official

Address: 2800 North Horseshoe Drive

Naples, FL. 34104

Telephone: 239-252-2442

Facsimile: 239-252-2906

**Name and Address of Petitioner's Attorney  
or Qualified Representative, if any**

Not Applicable

**Statutory Provision(s), Agency Rule(s), or Agency Order(s)  
on Which the Declaratory Statement is Sought**

Florida Statute 553.73, 2007 Florida Building Code Section 105.1 and 105.2 are very specific as to the required permits, and what is exempt from permits.

**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 required impact-resistant coverings, 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.**"

**105.2 Work exempt from permit**

**Plumbing**

1 "The stoppage 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 be made as provided in this code.**"

2. "The clearing of stoppages or the repair 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."

**Description of How the Statute(s), Agency Rule(s) or Agency order(s) may Substantially affect the  
Petitioner in the Petitioner's Particular Set of Circumstances**

It is the contention that since the word "water heater" is not specifically mentioned in Sections 105.1 and 105.2 the replacement and new installation of water heaters should be exempt. It is my interpretation this is definitely work that requires permits and inspections, due to the potential danger if these appliances are improperly installed, a final technical inspection should be performed by a licensed technical professional from the local building department.

**Question:**

**Is it the intent of 2007 Florida Building Code sections 105.1 and 105.2 to allow any owner, contractor or authorized agent, to replace, relocate, enlarge, change energy source of, or alter installation of a gas or electric water heater without filing for an application for a permit.**

Respectfully submitted this 17<sup>th</sup> day of April, 2009

A handwritten signature in black ink, appearing to read 'Rt. Dunn', written in a cursive style.

Robert Dunn, CBO

Collier County Building Official

Petitioner

---