Code Enforcement Inspectors -- Residential Property

Number: INFORMAL

Date: September 07, 2016

The Honorable Wilton Simpson
Senator, 18th District
322 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Senator Simpson:

Thank you for contacting this office for assistance in determining whether municipal and county code enforcement inspectors may gain access to residential properties under circumstances other than representing themselves as code enforcement inspectors for the purpose of detecting potential code violations. You inquire in anticipation of filing amendatory legislation. Attorney General Bondi has asked that I respond to your letter.

In Attorney General Opinion 2002-27, this office was asked whether a local government code enforcement inspector was authorized by law to enter onto private premises to conduct inspections or assure compliance with local technical codes without the consent of the owner or occupant, or having first procured a warrant. In discussing the provisions of Florida law relative to local code inspectors, this office noted that such inspectors are the authorized agents or employees of the county or municipality for assuring code compliance. The opinion further discussed the protections against unreasonable governmental intrusion afforded by the United States and Florida Constitutions.

This office recognized that administrative searches or inspections conducted outside the judicial process without consent or without prior approval (evidenced by an administrative search warrant) are not reasonable, unless it is shown that the search or inspection falls within one of the well-recognized exceptions to this rule.[1] While Florida law authorizes the issuance of limited administrative search warrants in sections 933.20-933.30, Florida Statutes, owner-occupied family residences are specifically exempted from the provisions of the act.[2]

The opinion concluded that a local code inspector is without authority to enter any private, commercial, or residential property to assure compliance with or to enforce the various local technical codes or to conduct any administrative inspections or searches without the consent of the owner or the operator or occupant of such premises, or without a duly issued search or administrative inspection warrant.[3]

There have been neither amendments to the Florida Statutes, nor subsequent cases which would alter the conclusion reached in Attorney General Opinion 2002-27.

I trust these informal comments are helpful to you.

Sincerely,

Lagran Saunders
Senior Assistant Attorney General

ALS/tsh

---

[1] *See, e.g., See v. City of Seattle*, 387 U.S. 541 (1967); *Peterman v. Coleman*, 764 F.2d 1416 (11th Cir. 1985); *Jones v. City of Longwood*, 404 So. 2d 1083 (Fla. 5th DCA 1981), *pet. for rev. den.*, 412 So. 2d 467 (Fla. 1982); Ops. Att'y Gen. Fla. 84-32 (1984) and 82-007 (1982).

[2] Section 933.21, Fla. Stat.

[3] *Cf.* Op. Att'y Gen. Fla. 2009-37 (order of the city's Unsafe Structures Board authorized city to enter premises found to be in violation of city's code in order to abate or repair the violation without the owner's consent, but did not substitute for the appropriate warrant to arrest the owner).