

From: [Vaupel, Jessica](#)
To: [Robert Grimaldi](#); "[dan.leonard@am.jll.com](#)"
Cc: [Smith, Katie](#); VAB; "[Cristina Saya](#)"
Subject: FW: Request for Reconsideration: 2020-00147
Date: Monday, December 14, 2020 2:58:24 PM
Attachments: [image006.png](#)
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[image013.png](#)
[image014.png](#)

Good Afternoon.

Please see the below response from VAB Counsel Thalwitzer regarding the Property Appraiser's Request for Reconsideration concerning petition 2020-00147.

Jessica Vaupel
Assistant Manager, Clerk of the Board Department
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jessica.vaupel@occompt.com



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From: Aaron Thalwitzer <aaron@brevardlegal.com>
Sent: Monday, December 14, 2020 12:39 PM
To: Vaupel, Jessica <Jessica.Vaupel@occompt.com>
Cc: Smith, Katie <Katie.Smith@occompt.com>; VAB <VAB@occompt.com>
Subject: RE: Request for Reconsideration: 2020-00147

Hi Jessica,

In this substantial completion petition, the subject property was intended to be an assisted living facility ("ALF"). In Florida, an operator of an ALF requires approval from Florida's Agency for Healthcare Administration, Division of Health Care Quality Assurance ("ACHA"). Such approval was not issued until 3/30/2020, well after the 1/1/20 date of assessment. As such, it appears undisputed that the petitioner could not operate an ALF at the subject property on 1/1/20.

The PAO argues that this petition and the underlying factual background, are indistinguishable from a different petition in which the SM found that substantial completion had been reached even though only a Temporary Certificate of Occupancy had been issued. I disagree. In the instant petition, the petitioner cannot use the property for its intended use, as an ALF, without a license which it lacked on 1/1/20. The PAO's argument is essentially that, because the petitioner could make *some* use of the subject property even with the license, it is irrelevant that it could not make its intended use. In other words, the PAO appears to take the position that the SM should find substantial completion because, even without the ACHA license, the subject property could house regular tenants or be used in some other non-ALF way. This argument ignores the definition of "substantially completed" cited in the PAO's request: "the improvement or some self-sufficient unit within it *can be used for the purpose for which it was constructed*" (emphasis supplied) F.S. 192.042(1). Using the subject property other than as an ALF is not using it "for the purpose for which it was constructed".

The PAO also attempts to minimize the importance of the ACHA license to the intended use of the subject property, analogizing it to a case in which a property was found to be substantially complete "even though some minor items might be required to be added." Implicit in this argument is the conclusion that the ACHA license is a "minor item[]" which "might" be required. I disagree with this notion. The ACHA license is not "minor" to the intended use of the subject property, it is critical. It is also not something which "might" be necessary; it is a strict legal requirement which must be satisfied before the subject property may serve as an ALF.

Consequently, I agree with the recommended decision's finding that the subject property had not reached substantial completion on 1/1/20, and accordingly would deny the request for reconsideration.

Thank you,



GORDON & THALWITZER
ATTORNEYS AT LAW

Aaron Thalwitzer, Esq.

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From: Robert Grimaldi <rgrimaldi@ocpafl.org>

Sent: Wednesday, December 2, 2020 1:28 PM

To: VAB <VAB@occompt.com>

Cc: aaron@brevardlegal.com; 'dan.leonard@am.jll.com' <dan.leonard@am.jll.com>; Smith, Katie <Katie.Smith@occompt.com>; Vaupel, Jessica <Jessica.Vaupel@occompt.com>; Starr Brookins <sbrookins@ocpafl.org>; Cristina Saya <msaya@ocpafl.org>; Camille Smith <csmith@ocpafl.org>; James M. Kleitz <jkleitz@ocpafl.org>; Ana M. Arroyo <aarroyo@ocpafl.org>; Tatsiana Sokalava <tsokalava@ocpafl.org>

Subject: Request for Reconsideration: 2020-00147

Good afternoon,

Please see the attached correspondence.

Thank you,

Robert Grimaldi, Esq.

Legal Advisor

Representing Rick Singh, CFA | Orange County Property Appraiser

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