

From: [Marshall Labadie](#)
To: [Commission](#)
Cc: [Jeff Remas](#); [Ingrid Allen](#); [Madison Noonan](#); [Skender Coma](#); [Lanelda Gaskins](#)
Subject: FW: FVPs additional info
Date: Friday, January 17, 2025 12:06:19 PM
Attachments: [Letter to City of Highlands Beach regarding FVP.pdf](#)
[Floating Vessel Platform Plan submitted.pdf](#)
[image001.png](#)

Please see additional information related to Floating Vessel Platforms from Mr. De Beer.



Marshall Labadie, ICMA-CM
Town Manager

Town of Highland Beach
3614 South Ocean Boulevard
Highland Beach, FL 33487
(T) 561.278.4548
(F) 561.265.3582

[Working to protect our 3 Miles of Paradise](#)

From: Marthin De Beer <mdebeer@brightplan.com>
Sent: Friday, January 17, 2025 11:59 AM
To: Marshall Labadie <mlabadie@highlandbeach.us>
Subject: FVPs additional info

Marshall,

I appreciate your time today. Please find attached the documents I had in the meeting, so you have it in digital form.

In addition to the letter to the town, you will find the answer I received from my attorney when I asked about the platforms:

In short – yes. Exempt FVPs and those with general permits are preempted from complying with local government setbacks. More detailed answer below as I suspect the additional details may become helpful for your discussions.

The statutory language in 403.813(1)(s), Florida Statutes reads as follows:

- For FVPs that are exempt (under 500 square feet and meet the other criteria) – “the structure may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government” and “A local government may require only a one-time registration of all other floating vessel platforms where the platform owner self-certifies compliance with the exemption criteria in this section to ensure compliance with ordinances, codes, state-delegated or state-mandated plans or programs, or regulations relating to building or zoning, which may not be applied more stringently than, or inconsistent with, the exemption criteria in this section and address subjects other than subjects addressed by the exemption criteria in this section; and to ensure proper installation, maintenance, and precautionary or evacuation action following a tropical storm or hurricane watch of a floating vessel platform or

floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.”

- For FVPs that have a general permit such as yours there is similar statutory language – “A local government may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. A local government may require a structure owner to obtain either a permit or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.”

Kind regards,

Marthin





BrightPlan



Marthin De Beer

Founder & CEO

408-656-5171

mdebeer@brightplan.com

www.brightplan.com

STEARNS WEAVER MILLER
WEISSLER ALHADEFF & SITTERSON, P.A.

Amelia Savage
106 East College Avenue, Suite 700
Tallahassee, FL 32301
Direct: (850) 354-7606
Email: asavage@stearnsweaver.com

October 11, 2024

Sent Via Electronic Mail

Town of Highland Beach
c/o Len Rubin
Len@TorciviaLaw.com

RE: Marthin De Beer – Floating Vessel Platform at 4307 Intracoastal Drive

Mr. Rubin,

My firm, Stearns Weaver Miller, represents Mr. and Mrs. De Beer regarding the floating vessel platform (FVP) at their residence, located at 4307 Intracoastal Drive. A residence has existed at this location since before 2000 according to publicly available aerials. Around 2007, construction of the existing house was undertaken and a dock was built along the seawall, in accordance with all applicable permits at the time. The De Beers purchased the residence in 2019 and have worked with Highland Beach and their neighbors regarding allowable docking for their vessel, adjusting as verbal permission that allowed their vessel to overhang the lot line was later revoked by the neighbors. The De Beers recently added the FVP next to their existing dock, as discussed in more detail below.

General Permit for FVPs

FVPs are environmentally beneficial as they secure vessels out of the water when tied to a dock. They keep bottom paints out of Florida's waters and reduce the possibility of pollution incidents. Floating vessel platforms are located where a boat would otherwise be authorized to dock and Florida law has recognized both a statutory permitting exemption and a general permitting process for these products for more than 20 years in subsection 403.813(1)(s), Florida Statutes (Fla. Stat.).

Subsection 403.813(1)(s), Fla. Stat., provides a statutory exemption for certain FVPs under 500 square feet, and also provides a general permit for FVPs which are larger than the statutory exemption, but which "do not cause significant adverse impacts to occur individually or cumulatively." s. 403.813(1)(s)3., Fla. Stat. For FVPs that qualify for the general permit, "[a] local government may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit." *Id.*

As the De Beers' FVP is larger than 500 square feet, it does not qualify for the statutory exemption. Thus, the De Beers applied to the Florida Department of Environmental Protection (FDEP) seeking confirmation that their FVP qualifies for the general permit, addressed in more

detail in Rule 62-330.428, *Florida Administrative Code*. FDEP processed the application, agreed that the De Beer FVP qualifies for the general permit, and issued a General Permit File No. 50-452830-001-EG on October 11, 2024. With confirmation that De Beer FVP qualifies for the general permit, the following language from subsection 403.813(1)(s)3., Florida Statutes, is applicable:

A local government may not impose a more stringent regulation, permitting requirement, registration requirement, or other regulation covered by such general permit. A local government may require a structure owner to obtain either a permit or one-time registration of floating vessel platforms as necessary to ensure compliance with the general permit in this section; to ensure compliance with local ordinances, codes, or regulations relating to building or zoning that are no more stringent than the general permit in this section; and to ensure proper installation and maintenance of a floating vessel platform or floating boat lift that is proposed to be attached to a bulkhead or parcel of land where there is no other docking structure.

Under the statutory language above, Highland Beach has the authority to require permitting or one-time registration of floating vessel platforms, but only as necessary to ensure the compliance with the general permit, to ensure compliance with local codes relating to building or zoning (which are no more stringent than the exemption criteria), or to ensure proper installation and maintenance where a FVP is proposed to be attached to a parcel where this is no other docking structure.

I am unaware of a Town permit application or registration form for a FVP that qualifies for the general permit, so in the spirit of cooperation, my client has completed the *Town of Highland Beach Residential Floating Vessel Platform/Floating Boat Lift Exemption Certification Application* as the closest applicable document. Note that I edited the certification to instead reference the general permit instead of the exemption. Supporting information that was also provided to the FDEP is enclosed herewith, specifically a submerged aquatic vegetation survey. Also, a sketch showing the existing seawall, dock, and FVP is attached as the final page of the FDEP General Permit issued to the De Beers. I trust because this information was sufficient for FDEP, it will also be sufficient for Highland Beach.

As the De Beers' property has an existing dock, the final clause cited above is inapplicable to this situation. Thus, the only statutory provision remaining is Highland Beach's authority to ensure compliance with local codes related to building or zoning which are no more stringent than the general permit criteria. Stated another way, Highland Beach is allowed to apply its zoning and building regulations on subject matters not covered by the statutory criteria of location, size, environmental impact. Highland Beach is able to enforce its code requirements related to electricity, plumbing, and other topics not addressed by the FVP statute. For example, if the De Beers desire lights on the FVP, the local code regarding electricity would apply. However, there are no electrical, plumbing, etc. concerns for the FVP.

Record Clarification

I have received a letter dated July 15, 2024, from a neighboring property owner to the Town of Highland Beach and take this opportunity to respond to allegations therein. The July letter has no merit, and while a point-by-point discussion is unnecessary, my client would like to correct the record as to a number of points.

The July letter asserts that only one dock is allowed on the property and alleges De Beer is seeking an additional dock. A FVP is not a dock. This distinction can be seen by separate statutory exemptions for floating docks that are different than the statutory provisions regarding FVPs. Additionally, FDEP has a general permit for floating docks (cited by the July letter) that is different than the general permit for FVPs cited in this letter above. In fact, as discussed above, FVPs are intended to be used where a boat otherwise can be moored and are often used within boat slips. Thus, a FVP is not a dock and these allegations have no merit.

The July letter also asserts that the FVP violates setback lines. FDEP's general permit criteria addresses where a FVP can be placed and limits the size. As the location and size of an FVP are addressed in the statute and general permit criteria, a local government can be no more stringent in its regulations. Therefore, setback lines are inapplicable to a FVP that is statutorily exempt or meets the general permit criteria.

Conclusion

The Florida Department of Environmental Protection has issued a General Permit to Mr. De Beer authorizing his floating vessel platform. Therefore, subsection 403.813(1)(s), Florida Statutes, limits a local government's regulatory authority. Enclosed is the FDEP permit and documents submitted to the state agency to assist in its review. As you will see, the De Beer FVP meets the general permit and statutory criteria and therefore meets the local government requirements.

Thank you for your consideration on this matter and please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Amelia Savage". The signature is fluid and cursive, with the first name "Amelia" and last name "Savage" clearly distinguishable.

Amelia Savage

cc: Jeff Remas, Building Official - bco@highlandbeach.us
Ingrid Allen, Town Planner - iallen@highlandbeach.us
Adam Osowsky, Code Compliance Officer – aosowsky@highlandbeach.us
Marthin De Beer – mfdebeer@mac.com



This map is a general depiction of boundaries obtained from public records and is not a legal description or survey.