

Section VII

Notices of Petitions and Dispositions Regarding Declaratory Statements

DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has issued an order disposing of the petition for declaratory statement filed by Kari Hebrank, on behalf of 4th Floor Advocacy, on January 9, 2007. The following is a summary of the agency's disposition of the petition: It was assigned the number DCA07-DEC-002. The Commission determined that Section 414.6 and Table 414.2.4. of the Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06), allows for a maximum outdoor storage capacity of 1,950 gallons of liquid chlorine, as long as it is in accordance with the Florida Fire Prevention Code.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on January 10, 2007, from Stephen R. Walsh, P.E., on behalf of Walsh Engineering, Inc., regarding whether Section 553.79(5), Florida Statutes, allows authorized representatives to perform inspections of shoring and reshoring for professional engineers. It has been assigned the number DCA07-DEC-004.

A copy of the request may be obtained by writing to: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has issued an order disposing of the petition for declaratory statement filed by Philip Stoller, on behalf of PERMA-COLUMN, INC. on November 16, 2006. The following is a summary of the agency's disposition of the petition: It was assigned the number DCA06-DEC-287. The Commission determined that pre-cast concrete posts would be deemed structural components according to Rule 9B-72.005, Florida Administrative Code (F.A.C.), and as such, their use in Florida would have to be contingent upon their approval pursuant to Rule 9B-72.090, F.A.C.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on January 11, 2007, from Billy Tyson, CBO, on behalf of Clemons-Rutherford & Associates, regarding whether a cement based particleboard material used in the floor framing design for a Type II-B Construction classroom, which was tested to ASTM E-136 using a modified ten minute test wherein the material's core temperature did not reach 750 degrees centigrade, complies with the requirement for non-combustibility contained in Section 703.4.1, Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06). It has been assigned the number DCA07-DEC-011.

A copy of the request may be obtained by writing: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on January 16, 2007, from Bob Littleton, Plumbing Chief, on behalf of Hillsborough County, regarding clarification of the spacing requirements for plumbing fixtures such as water closets, urinals, lavatories and bidets set forth in section P2705.1(5), Florida Building Code, Residential Volume (2004 as amended 12/05 and 12/06) and in section 405.3.1, Florida Building Code, Plumbing Volume (2004 as amended 12/05 and 12/06). It has been assigned the number DCA07-DEC-012.

A copy of the request may be obtained by writing: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on January 25, 2007, from James M. Nicholas, Esquire, on behalf of Townhomes of Suntree, regarding whether Brevard County falls within a High-Velocity Hurricane Zone as defined by section 1521, Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06). It has been assigned the number DCA07-DEC-016.

A copy of the request may be obtained by writing: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on April 9, 2007, from Robert S. Fine, Esquire, on behalf of TRG Block One, regarding whether section 1519.16, Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06) applies to all balconies in high-rise residential structures and all deck levels of multi-level parking garages. It has been assigned the number DCA07-DEC-017.

A copy of the request may be obtained by writing: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received the petition for declaratory statement on February 1, 2007, from Orlando Velez, on behalf of General Stair Company, regarding whether section R312.1 or section R4403.7.3.1, Florida Building Code, Residential Volume (2004 as amended 12/05 and 12/06) governs the installation of guardrails on open sides of interior residential staircases in the High-Velocity Hurricane Zone. It has been assigned the number DCA07-DEC- 019.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on February 13, 2007, from Lee S. Rigby, on behalf of Vertical Assessment Association, regarding whether Section 553.509(4)(a), Florida Statutes (2006), when referring to buildings “at least 75 feet high” has the same meaning as section 403.1, Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06), which refers to “buildings having occupied floors located more than 75 feet above the lowest level of fire department vehicle access.” It has been assigned the number DCA07-DEC-028.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on February 15, 2007, from Rob Lattin, Forum Architecture and Interior Design, Inc., on behalf of Rapallo, LLC, regarding:

1. Whether, in the circumstances described in the petition, section 1022.6 exception (4), Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06) or the 2004 Florida Fire Prevention Code derived from NFPA 101 Section 7.2.2.6.3 governs the need or separation of exterior stairs from the interior of the building.

2. In cases where there is a conflict between the Florida Building Code and the Florida Fire Prevention Code, whether the conflict is to be resolved with the solution that provides the greatest degree of life safety.

3 Whether the open ended corridor design allowed by section 1022.6 exception (4), Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06) provides an equivalent

method of construction to that required by the 2004 Florida Fire Prevention Code derived from NFPA 101 Section 7.2.2.6.3.

4. Whether, in the event that the Florida Fire Prevention Code or other Codes referenced or adopted as part of the Florida Building Code (2004 as amended 12/05 and 12/06), do not address specific conditions that are addressed by the Florida Building Code (2004 as amended 12/05 and 12/06), the provisions of the Florida Building Code prevail.

It has been assigned the number DCA07-DEC-031.

A copy of the request may be obtained by writing: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on February 22, 2007, from Don Blalock, on behalf of Quickbrick USA LLC, regarding whether the Petitioner’s product, a type of unfired interlocking brick that is designed to be glued together with construction adhesive instead of mortar, is within the scope of Rule 9B-72.005, F.A.C. It has been assigned the number DCA07-DEC-034.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs received a request for Declaratory Statement on March 14, 2007, from John Leedy, P.E., on behalf of Leedy Electric Corp., regarding whether, on a commercial project valued at \$65,000 in which the Petitioner is adding a circuit with a 400 ampere feeder, project plans must be certified by a Professional Engineer pursuant to section 105.3.1.2, Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06) or whether the licensure exemption contained in Section 471.003(2)(h), Florida Statutes (2006), applies to the project. It has been assigned the number DCA07-DEC-047.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on March 14, 2007, from Joseph W. Broughton, P.E., on behalf of Burgess Engineering, Inc., regarding whether sections 13-415.1.ABC.1.1 and 13-415.1.ABC.1.2, Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06) require the installation of occupancy sensors to turn off

lighting within 30 minutes of occupants leaving the various rooms and offices in a 4,200 square foot commercial building, except in those rooms listed as specific exemptions. It has been assigned the number DCA07-DEC-048.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on March 15, 2007, from Penny Hoxie on behalf of PolyVulc USA, Inc. regarding whether the Petitioner's products, a pad made from recycled plastics and tire rubber that is used as an alternative to concrete pads to provide a base foundation and clearance from grade for air conditioners and other mechanical equipment, and an anchoring system for use in areas where HVAC equipment must be anchored into the soil, are within the scope of Rule 9B-72.005, F.A.C. It has been assigned the number DCA07-DEC-049.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on March 16, 2007, from Alfonso E. Oviedo-Reyes, on behalf of Hunker Down Systems.com, regarding whether the Petitioner's product, a roof decking anchoring system used as an adjunct to nails for attaching plywood sheets to the trusses of residential roofs, and for anchoring other parts of the structure such as concrete slab walls, drywalls, and exterior and interior plaques, is within the scope of Rule 9B-72.005, F.A.C. It has been assigned the number DCA07-DEC-050.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on April 2, 2007, from Andrew Johnston, on behalf of Harbor Home Improvements, regarding whether section 505.1, Florida Building Code, Existing Building Volume (2004 as amended 12/05 and 12/06) allows replacement windows to be the same size and style as previously existing windows in residential structures undergoing level 1 restoration (replacement of windows). It has been assigned the number DCA07-DEC-065.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on April 3, 2007, from Joseph R. Hetzel, P.E., on behalf of DASMA, regarding whether garage doors without glazed windows must comply with the windborne debris resistance provisions of sections R301.2.1.2, Florida Building Code, Residential Volume (2004 as amended 12/05 and 12/06) and 1609.1.4, Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06) in windborne debris regions outside the High-Velocity Hurricane Zone. It has been assigned the number DCA07-DEC- 067.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on April 11, 2007, from Nelson de Leon, A.I.A., President of Locus Architecture, Inc., on behalf of Coral Gables Building Department, regarding whether a roof-top dining terrace at a restaurant falls within the provisions of sections 704.9, 705 and/or 1607.11.2.2 of the Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06) for purposes of fire protection. It has been assigned the number DCA07-DEC- 072.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on April 13, 2007, from Siegfried W. Valentin, on behalf of American Architectural Manufacturers Association, regarding the product approval testing requirements for fenestration products (double hung and casement windows) to be used in the High-Velocity Hurricane Zone. It has been assigned the number DCA07-DEC-078.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on April 17, 2007,

from Keith A. Mahaffrey, on behalf of Keith Mahaffrey Pools, Inc., regarding the requirements for location, marking of, and use of step tile or accent tile in underwater seats, benches and swimouts in residential swimming pools pursuant to chapter 41 of the Florida Building Code, Residential Volume (2004 as amended 12/05 and 12/06). It has been assigned the number DCA07-DEC-079.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on April 20, 2007, from Mike Pella, P.E. on behalf of KAMM Consulting, regarding clarification of the venting requirements for hotel guest bathrooms under section 607.5.5.1 of the Florida Building Code, Mechanical Volume (2004 as amended 12/05 and 12/06) and the use of smoke dampers in group R occupancies. It has been assigned the number DCA07-DEC-080.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on April 18, 2007, from William A. Gates regarding the requirements for an accessible means of egress and use of an exterior stairway, pursuant to section 1007 of the Florida Building Code, Building Volume (2001 as amended 12/02 and 6/03) in the exit discharge area of a single family residence for which a building permit was issued in July 2003 but a certificate of occupancy has not yet been issued. It has been assigned the number DCA07-DEC-081.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has received a petition for declaratory statement on May 15, 2007, from Richard C. Bliss, on behalf of The Landing Group of Tampa, Inc., regarding whether section 2223.6.3, Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06) and Section 489.113, Florida Statutes, allow the Petitioner, a general contractor, to install a roof on a building for which engineer sealed drawings are provided and where the Engineering Evaluation Report for Florida Product Approval

states that the metal roofing is part of the structural integrity of the building, without using a licensed roofing contractor. It has been assigned the number DCA07-DEC-096.

A copy of the request may be obtained by writing: Paula P. Ford, Clerk, Department of Community Affairs, Florida Building Commission, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has issued an order disposing of the petition for declaratory statement filed by Joseph R. Webster, on behalf of Atlantic Windows & Doors, Inc. (Petitioner) on October 24, 2006. The following is a summary of the agency's disposition of the petition: It was assigned the number DCA06-DEC-294. The Commission determined that the product being developed by Petitioner, a metal receptor system to be used for window installation in lieu of 1x or 2x lumber, is a product introduced by new technology as covered by Chapter 9B-72, F.A.C., and its use on windows having Florida product approval would have to be evaluated on a case by case basis.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Department of Community Affairs, Florida Building Commission has issued an order disposing of the petition for declaratory statement filed by Thomas E. Miller, PE, on behalf of Structural Engineering and Inspections, Inc., on behalf of Taylor Woodrow Homes on December 5, 2006. The following is a summary of the agency's disposition of the petition: It was assigned the number DCA06-DEC-300. The Commission determined that a particular lot would be considered to be in Wind Exposure Category B, pursuant to Section 1609.4, Florida Building Code, Building Volume (2004 as amended 12/05 and 12/06), but that any final determination should be made by the design professional based on site specific conditions. Whether a terrain includes "scattered obstructions" is subject to accepted engineering practices.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

AGENCY FOR HEALTH CARE ADMINISTRATION

NOTICE IS HEREBY GIVEN THAT Agency for Health Care Administration has received the petition for declaratory statement from Elaine Decutiis. The petition seeks the agency’s opinion as to the applicability of as to the interpretation of Section 419.001(1)(a), Florida Statutes (2006) as it applies to the petitioner.

The Petition was received on March 2, 2007, and seeks a declaratory statement from the Agency as to the interpretation of Section 419.001(1)(a), Florida Statutes (2006), in order for the Petitioner to obtain community residential home status and comply with the zoning exemption of Section 419.001(2), Florida Statutes (2006).

A copy of the Petition for Declaratory Statement may be obtained by contacting: Richard J. Shoop, Esquire, Agency Clerk, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop #3, Tallahassee, Florida 32308.

Please refer all comments to: Thomas M. Hoeler, Senior Attorney, Agency for Health Care Administration, The Sebring Building, 525 Mirror Lake Drive, North, St. Petersburg, Florida 33701.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN THAT Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation, has declined to rule on the petition for declaratory statement filed by Charles E. Bailes, III, d/b/a ABC Fine Wine and Spirits on April 3, 2007. The following is a summary of the agency’s declination of the petition:

The petition, which asked whether distributors may provide in-store servicing of distilled spirits to retailers under Section 561.424, Florida Statutes, was denied. The division declined to issue a declaratory statement because the parties are presently engaged in litigation at the Division of Administrative Hearings and the issue is pending judicial resolution.

A copy of the Order Declining of the Petition for Declaratory Statement may be obtained by contacting: Agency Clerk, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF FINANCIAL SERVICES

NOTICE IS HEREBY GIVEN THAT the Department of Financial Services, Division of State Fire Marshal, has received a Petition for Declaratory Statement filed on or about

May 4, 2007, from Wilton Lee, Petitioner. The Petition requests a declaratory statement relating to NFPA 70, NEC 2002, and/or NEC 2005, Article 550.15(h).

A copy of the Petition may be obtained by writing to, calling, or faxing: Lesley Mendelson, Assistant General Counsel, 200 East Gaines Street, Tallahassee, Florida 32399-0340, (850)413-3604, or (850)413-4238; Fax (850)922-1235 or (850)488-0697 (please advise if you would like it mailed or faxed to you and please include your phone number on your request in case any question arises), or by e-mailing your request to Lesley.Mendelson@fldfs.com.

**Section VIII
Notices of Petitions and Dispositions
Regarding the Validity of Rules**

Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

Tarpon Springs Hospital Foundation, Inc., d/b/a Helen Ellis Memorial Hospital vs. Agency for Health Care Administration; Case No.: 07-1855RP; Rule No.: 59A-3.2085

Florida Fine Wine and Spirits, LLC, d/b/a Total Wine and More vs. Department of Business and Professional Regulation; Case No.: 07-1857RX; Rule No.: 61A-1.010

Aluminum Association of Florida, Inc. and Robert Monsour, P.E. vs. Department of Business and Professional Regulation, Board of Professional Engineers; Case No.: 07-1872RP; Rule No.: 61G15-31.010

Jessica Henderson vs. Department of Children and Family Services; Case No.: 07-1933RP; Rule No.: 64A-1.205

Ikon Office Solutions, Inc. vs. Pinellas County School Board and Xerox Corporation; Case No.: 07-1266RU

Florida Fine Wine and Spirits, LLC, d/b/a Total Wine and More vs. Department of Business and Professional Regulation; Case No.: 07-1858RU

Larry Phillips vs. Timothy J. Budz, Facility Administrator, Florida Civil Commitment Center; George C. Zoley, Chief Executive Officer, The Geo Group, Inc.; and Department of Children and Families Services; Case No.: 07-1969RU

Custom Mobility, Inc. vs. Agency for Health Care Administration; Case No.: 07-2136RU