

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 Clark Stranahan, on behalf of National Council of Architectural Registration Boards and C4 Architecture, L.L.C. on August 1, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-162. The Commission determined that Sections 104.11, 903.2.8 and 910, Florida Building Code, Building Volume (2004 as amended 12/05), require the installation of smoke and heat venting in a 187,167 square foot industrial warehouse, a building classified as having Group S-1 Occupancy that stores 30 feet of high-piled combustibles, even if the warehouse is protected by an Early Suppression Fast-Response (ESFR) sprinkler, unless the building official allows an alternative design or method to be used pursuant to section 104.11, Florida Building Code, Building.

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 Clark Stranahan, on behalf of National Council of Architectural Registration Boards and C4 Architecture, L.L.C. on August 1, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-175. The Commission determined that 400 feet is the allowable Exit Access Travel Distance pursuant to Table 1015.1, Florida Building Code, Building Volume (2004 as amended 12/05), for buildings classified as having Group S-1 or F-1 Occupancies when smoke and heat vents are installed.

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 Jeff Alloway, on behalf of U.S. Air Conditioning on August 1, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-176. The Commission determined that changing the air handling unit of a split system air conditioner is a major replacement, not a repair as contemplated by Section 202, Florida Building Code, Existing Building Volume (2004 as amended 12/05). However, Sections 13-101.6, Florida Building Code, Building Volume, and 509.1, Florida Building Code, Existing Building Volume, and 301.11, Florida Building Code, Mechanical Volume (all 2004 as amended 12/05), allow replacement of system components in such a manner as to preserve the original approval or listing. Therefore, the combined efficiency is not required to meet the minimum efficiency listed for that type of equipment in Table 13-607.1.ABC.3.2A, Florida Building Code, Building, but needs to comply with the standards in effect at the time the unit was installed.

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 Michael P. Morris, on behalf of Roll-A-Cover International on August 1, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-179. The Commission determined that the retractable self-standing metal enclosures manufactured by the Petitioner are custom fabricated buildings within the meaning of Section 553.842(10), F.S., and as such are outside the scope of Rule 9B-72.005, F.A.C., and do not require separate approval for each individual building. Components of the custom built building, such as the deck-roof, wall/siding, windows and doors, are within the scope of Rule 9B-72.005, F.A.C., and approval for these components may be obtained at the local level or through the Commission.

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 Gordon G. Lyle, on behalf of R2 SELF, Incorporated on July 13, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-180. The Commission determined that Section 311.5.3.2, Florida Building Code, Residential Volume (2004 as amended 12/05) requires that the maximum stair riser height must be 7 3/4 inches and the minimum tread depth, exclusive of nosing, must

not be less than 9 inches. As an option, this section allows treads and risers to be proportioned so that the sum of two risers and a tread, exclusive of projection of nosing, is not less than 24 inches nor more than 25 inches, provided the measurements specified are accomplished.

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 James S. Luke, on behalf of Rolf Jensen & Associates on August 1, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-181. The Commission determined that if a new 340,000 square foot addition is built on an existing 800,000 square foot furniture storage warehouse that was completed under the 2001 Florida Building Code and is fully sprinklered, including in-rack sprinklers, but which does not have an Early Suppression Fast-Response (ESFR) system, roof vents or draft curtains, and is of Group S-1 and Type II-B construction as defined by the 2004 edition of the Florida Building Code (2004 as amended 12/05), both the existing building and the addition will be required to provide for smoke and heat vents and an automatic sprinkler system. In order for the proposed project to be built following the unlimited area provisions of Section 507.2 or Table 503, Florida Building Code, Building Volume (2004 as amended 12/05), both the existing warehouse must meet the requirements of Section 507.2 or be of Type I-A construction.

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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 Warren Schaefer, P.E. on August 18, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-200. The Commission determined that rational engineering analysis cannot be used in lieu of standard testing of anchoring materials proposed as substitutes for the materials specified in the manufacturer's installation instructions for non-impact resistant aluminum clad wood sliding doors and impact resistant aluminum clad wood swing doors, except that local projects may have specific product approval in accordance with alternate methods and materials authorized in the 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 issued an order disposing of the petition for declaratory statement filed by Warren Schaefer, P.E. on August 18, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-201. The Commission found that the determination of a wind load tributary area for window, door and shutter systems is subject to accepted engineering practices, and the determination of what constitutes accepted engineering practice is beyond the jurisdiction of the Florida Building Commission.

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 Steve Munnell, Executive Director on behalf of the Florida Roofing Sheet Metal & Air Conditioning Contractors Association, Inc. on August 28, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-212. The Commission determined that the Florida Building Code (2004 as amended 12/05) permits both the "L" flashing method and step flashing to be installed against sidewalls on residential construction inside the High Velocity Hurricane Zone (HVHC), and outside the HVHC allows step flashing to be installed against sidewall on residential construction, allows continuous "L" flashing; other installation methods may be allowed by the building official.

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 Bruce Kaiser, on behalf of WindTripper Corporation on August 30, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-215. The Commission determined that aftermarket airfoil devices which attach longitudinally to the fascia around the perimeter of a building's roof are not subject to product approval because they are not within the scope of Chapter 9B-72, 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 issued an order disposing of the petition for declaratory statement filed by Eddie Fischer, on behalf of the FTP Plastic Accessories for Construction S.A. ve C.V. on September 01, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-216. The Commission determined that the Petitioner's product, plastic accessories which reinforce concrete in rebar and mesh applications used for building construction, do not require Florida Product Approval, pursuant to Chapter 9B-72, F.A.C., because the product does not fall within any of the enumerated product categories governed by the rule, nor is it a product or system which comprises the building envelope and structural frame.

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 Paul B. Dickson, CBO on behalf of the City of Cape Coral on September 6, 2006. The following is a summary of the agency's disposition of the petition:

It was assigned the number DCA06-DEC-218. The Commission determined that although the land "footprint" of one of the anchor stores is under separate ownership from the rest of the Coral Walk Shopping Center, the shopping center is a single building for the purposes of measuring fire separation distance and application of the unlimited building area exception, pursuant to sections 507.2 and 702, Florida Building Code, Building Volume (2004 as amended 12/05).

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 Kirk Grundahl, P.E., on behalf of Wood Truss Council of America and Gulfstream Development on August 1, 2006. The following is a summary of the agency's disposition of the petition:

The Commission determined that the Florida Building Code (2004 as amended 12/05), which has adopted by reference ANSI/TPI 1-2002, does not require a minimum uniformly distributed attic non-storage live load to be applied concurrently with roof live load or wind load on a residential structure.

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."

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN THAT the Division of Florida Land Sales, Condominiums, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has received the petition for declaratory statement from In Re: Petition for Declaratory Statement, Service Animals & Pet Restrictions; Docket Number 2007026793. The petition seeks the agency's opinion as to the applicability of Section 413.08(1)(d), Florida Statutes, as it applies to the petitioner.

Whether Section 413.08(1)(d), Florida Statutes, permits an exception to the association's rule limiting each owner to two pets and precluding a third pet from being classified as a service animal when the animal is for companionship for persons suffering a mental illness like depression.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Division Clerk, Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2217.

Please refer all comments to: Janis Sue Richardson, Chief Assistant General Counsel, Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

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 HEALTH

NOTICE IS HEREBY GIVEN THAT the Board of Acupuncture has received the petition for declaratory statement from Dr. Ken Grey filed on March 13, 2007. The petition seeks the agency's opinion as to the applicability of Rule 64B1-9.007, F.A.C., as it applies to the petitioner.

The Petitioner seeks the Board's interpretation of advertising of Rule 64B1-9.007, F.A.C. The Petitioner requests that the Board issue a Declaratory Statement as to whether under Rule 64B1-9.007, F.A.C., physicians have the right to print "Dr. – A.P. D.O.M" on business cards and promotional materials.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Pamela King, Executive Director, Board of Acupuncture, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-0750.

The Board of Chiropractic Medicine hereby gives notice that it has received a Petition for Reconsideration and/or for Declaratory Statement filed on May 7, 2007, on behalf of United Automobile Insurance Co. For reasons explained at length in the Petition, the Petitioner requests that the Board reconsider its March 6, 2006, order and render it null and void. A copy of the Petition for Declaratory Statement may be obtained by contacting: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3257.

The Board of Medicine hereby gives notice that it has received a Petition for Declaratory Statement filed on behalf of Paul J. Befanis, M.D., on May 3, 2007. The Petition seeks the Board's opinion as to the applicability of Section 458.331(1)(i), Florida Statutes, as it applies to Petitioner. The Petitioner seeks the Board's interpretation of Section 458.331(1)(i), F.S., with regard to imposition of discipline upon physicians who enter into a potential marketing tool, in which Petitioner donates a \$10.00 contribution to a patient's designated 501(c)(3) charity. The contribution will be made when an existing patient refers a potential patient and the potential patient receives lasik surgery. The Board will consider this petition at its meeting scheduled for June 1-2, 2007, in Tampa, Florida.

Copies of the petition may be obtained by writing: Larry G. McPherson, Jr., Executive Director, Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253.

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 April 24, 2007, from Alex P. Stuckey, Jr., Petitioner. The Petition requests a declaratory statement relating to gas fired downdraft commercial cooking appliances. No specific questions are asked.

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, please include your phone number on your request in case any question arises), or by e-mailing your request to Lesley.Mendelson@fldfs.com.

NOTICE IS HEREBY GIVEN THAT the Department of Financial Services, Division of State Fire Marshal, has issued a Declaratory Statement on April 27, 2007, in RE: Petition for Declaratory Statement, Sonia Machen, Case # 89161.

The Declaratory Statement offers an interpretation of the Florida Fire Prevention Code and Life Safety Code, and the petitioner is the local enforcing agency. First question is whether fire sprinklers are required on terraces, enclosed on three sides, located in high rise apartment buildings. The question is answered in three parts. If the roof over the described terrace is less than four feet in width, the answer is "no," sprinklers are not required in order to provide full coverage as required in NFPA 13, Section 4.1. If the roof over the described terrace is greater than four feet, and combustible materials of a permanent nature are stored or handled in the area, the answer is "yes." If the roof over the described terrace is greater than four feet in width, sprinklers may be required, at the option of the Fire Marshal, where the overhand is of combustible or limited combustible construction. The second question is whether the answer to the first question would differ if living space existed above the terrace. The answer is "no."

A copy of the Declaratory Statement may be obtained by contacting: Lesley Mendelson, Assistant General Counsel, 200 East Gaines Street, Tallahassee, FL 32399-0340 or by e-mailing your request to Lesley.Mendelson@fldfs.com.