

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 James R. Shock, P.E., of the City of Jacksonville, Building Inspection Division (DCA09-DEC-130), on January 25, 2010. The following is a summary of the agency's disposition of the petition:

The Commission determined that section 403.2, Florida Building Code, Plumbing Volume (2007), and sections 309.1 and 102.1, Florida Building Code, Building Volume (2007) require separate toilet facilities in a food service establishment with seating for 11 patrons and an occupant load of 35.

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 Karins Engineering Group, Inc. (DCA09-DEC-139), on May 7, 2009. The following is a summary of the agency's disposition of the petition:

The Commission determined that an expired test report can be used to seek product approval under Rule 9B-72, Florida Administrative Code, provided that the report demonstrates compliance with a standard adopted within the Building Code and the application and other documentation meets the requirements of the rule.

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 the petition for declaratory statement from Engineering Express, DCA09-DEC-410. The petition seeks the agency's opinion as to the applicability of Chapter 9B-72, Florida Administrative Code, as it applies to the petitioner.

The Petitioner asks three questions: 1. Does a product that has already received state product approval for use in the High Velocity Hurricane Zone (HVHZ) under Chapter 9B-72, F.A.C., also require a local product approval such as a Miami-Dade Notice of Acceptance for permitting? 2. For products falling within the scope of Chapter 9B-72, F.A.C., are

evaluation documents demonstrating compliance with the Florida Building Code, signed and sealed by a professional engineer licensed in Florida, an acceptable substitute for product approval for the purpose of permitting? 3. Are products falling outside the scope of Chapter 9B-72, F.A.C., permissible for use inside and outside the HVHZ based solely upon evaluation documents demonstrating compliance with the Florida Building Code, signed and sealed by a professional engineer licensed in Florida?

A copy 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 the petition for declaratory statement from Fenestration Testing Laboratory, Inc., DCA09-DEC-411. The petition seeks the agency's opinion as to the applicability of section 13.102.2, Florida Building Code, Building Volume (2007, with 2009 supplement) as it applies to the petitioner.

The Petitioner asks if section 13.102.2, Florida Building Code, Building Volume (2007), requires approval by the Florida Building Commission, as well as the local building official, for use of Petitioner's product as an alternative material meeting the intent of the Energy Efficiency Code.

A copy 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 the petition for declaratory statement from Holland Pools, DCA09-DEC-419. The petition seeks the agency's opinion as to the applicability of sections 1004.1.1, 424.1.6.1, and 1008.1.9, Florida Building Code, Building Volume (2007, with 2009 supplement) as they apply to the petitioner. as it applies to the petitioner.

The Petitioner asks if sections 1004.1.1, 424.1.6.1, and 1008.1.9, Florida Building Code, Building Volume (2007, with 2009 supplement) require Panic and Fire Exit Hardware on the gates and additional Sanitary Facilities for the Cabana with community room when an outdoor swimming pool is installed in a residential community.

A copy 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 the petition for declaratory statement from George

Merlin Associates, Inc., DCA10-DEC-001. The petition seeks the agency's opinion as to the applicability of section 3109, Florida Building Code, Special Construction Volume (2007, with 2009 supplement) as it applies to the petitioner.

The Petitioner asks if two proposed modifications to single family dwellings located seaward of the FDEP/FBC coastal construction control line (the CCCL zone) fall within the scope of, or exemptions to, section 3109.1.1, F.B.C. The first proposed modification involves the construction of new walls and a second story floor and roof, but stays within the footprint/perimeter of the existing foundation, which has been determined adequate to support the proposed modifications. The cost of the modification will exceed 50% of the market value of the existing building. The second proposed modification is similar, but involves horizontal additions outside the perimeter of the existing foundation.

A copy 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 the petition for declaratory statement from GreenBuilt, Inc., DCA10-DEC-002. The petition seeks the agency's opinion as to the applicability of Chapter 9B-72, Florida Administrative Code, as it applies to the petitioner.

The Petitioner asks whether its products, pre-insulated steel framing systems, fall within the scope of Chapter 9B-72, F.A.C., or are subject to any of the exceptions contained in Rule 9B-72.030, F.A.C.

A copy 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 Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has received the petition for declaratory statement from Stanley R. Bowers, Paul Canfield and John Marino, Petitioners, In Re: Venture Out at Cudjoe Cay., Inc. A Condominium, Docket No.:

2010003223 on January 19, 2010. The petition seeks the agency's opinion as to the applicability of Section 718.3026(3), Florida Statutes as it applies to the petitioner.

Whether directors of Venture Out of Cudjoe Cay, Inc. who voted to approve a lease of a part of the condominium property to a real estate brokerage with which they had their units listed for sale or rent complied with Section 718.3026(3), Florida Statutes.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Division Clerk, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, 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 Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

NOTICE IS HEREBY GIVEN THAT the Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has received the petition for declaratory statement from Charles R. Gallagher, III, Esq. on behalf of Teresa Birney, Petitioner/Unit Owner, In Re: Grand Central at Kennedy Residences Condominium Association, Inc. The petition seeks the agency's opinion as to the applicability of Section 718.111, Florida Statutes as it applies to the petitioner.

Whether the Grand Central at Kennedy Residences Condominium Association, Inc. may deny a delinquent owner and her tenant's access to her unit and the common elements based upon an expired claim of lien under Section 718.111, Florida Statutes.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Division Clerk, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, 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 Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-2202.

NOTICE IS HEREBY GIVEN THAT the Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has received the petition for declaratory statement from Joel M. McTague, Esq. on behalf of Sunrise Lakes Condominium Apts., Phase 3, Inc. 1, The petition seeks the agency's opinion as to the applicability of Section 718.110(13), Florida Statutes, as it applies to the petitioner.

Whether Section 718.110(13), Florida Statutes, applies to owners who did not consent to a 1998 amendment to the Declaration of Condominium of Sunrise Lakes Condominium Apartments prohibiting leasing of units.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Division Clerk, Department of Business and Professional Regulation, Division of Florida Condominiums, Timeshares, 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 Condominiums, Timeshares, 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 Chiropractic Medicine has issued an order disposing of the petition for declaratory statement filed by Edward J. Leonard, D.C., on October 13, 2009. The following is a summary of the agency's disposition of the petition:

The Notice of Petition for Declaratory Statement published on October 23, 2009, in Vol. 35, No. 42, of the Florida Administrative Weekly. Petitioner sought the Board's interpretation of Section 460.403, Florida Statutes, entitled "Definitions," concerning whether petitioner is permitted to provide radiofrequency ablation, i.e., rhizotomy, services to his patients. The Board of Chiropractic Medicine considered the Petition at its meeting held on November 6, 2009, in Ft. Lauderdale, Florida. The Board's Order filed on November 18, 2009, answered the petitioner's question in the negative. It is the Board's opinion that radiofrequency ablation and/or rhizotomy are outside the scope of practice of chiropractic medicine as defined in Section 460.403(9), Florida Statutes.

A copy of the Order Disposing 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.

NOTICE IS HEREBY GIVEN THAT the Board of Clinical Laboratory Personnel has issued an order disposing of the petition for declaratory statement filed by Debra Pless on October 9, 2009. The following is a summary of the agency's disposition of the petition:

The Notice of Petition for Declaratory Statement published on October 23, 2009, in Vol. 35, No. 42, of the Florida Administrative Weekly. The petition seeks the Board's interpretation of subsection 64B3-5.002(1), F.A.C., entitled, "Supervisor," asking that in order to meet the educational requirements for supervisor, can the applicant's bachelors degree be of any major, i.e., Health Services Administration with the completion of additional science courses to meet the 24 hours of academic science required or does the bachelors degree have to be in an academic science that includes the 24 hours of academic science with 8 hours of biology and chemistry. The Board of Clinical Laboratory Personnel considered the Petition at its meeting held on December 4, 2009, in Ft. Lauderdale, Florida. The Board's Order filed on December 21, 2009, stated that the Board voted to decline to answer the Petition because the rule is clear on its face and does not need further interpretation.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257.

The Board of Psychology hereby gives notice that it has received a petition for Declaratory Statement, filed on January 13, 2010, by Harris L. Friedman, Ph.D. The Petitioner seeks the Board's interpretation of paragraph 64B19-13.003(3)(a), F.A.C., and whether the 6 hour course titled "Baker Act Training", offered by the University of Florida (USF), would count towards the three (3) of the forty (40) hours continuing psychological education credits of professional ethics and Florida Statutes and rules affecting the practice of psychology. The Board will address this Petition at its next meeting.

Comments on this petition should be filed with: Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255, within 14 days of publication of this notice.

For a copy of the petition, contact: Allen Hall, Executive Director, at the above address or telephone (850)245-4444.

Section VIII

Notices of Petitions and Dispositions Regarding the Validity of Rules

The Florida Department of Corrections HEREBY GIVES NOTICE that a hearing officer has determined that proposed Rule 33-401.701, F.A.C., is partially invalid. The time for filing an appeal of this decision expired December 2, 2009. The hearing officer determined that a portion of paragraphs (10)(h) and (10)(i) of the proposed rule was invalid pursuant to