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Section VII Notices of Petitions and Dispositions Regarding Declaratory Statements

DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN that the Florida Building Commission has received the petition for declaratory statement from The Holmes Agency, Inc., on behalf of the Ponte Vedra Plastic Surgery Center, on June 3, 2011. It has been assigned the number DCA11-DEC-115. The petition seeks the agency's opinion as to the applicability of (clarification of) section 13-406, Florida Building Code, Energy Efficiency for Building Construction (2007), as it applies to the petitioner.

The Petitioner is repairing gypsum drywall that functions as a ceiling air barrier in a surgical center, for the purpose of correcting conditions in areas of the building that are experiencing elevated temperatures and humidity. The Petitioner asks whether the code requires a whole building leakage rate test and/or an assembly as-built leakage rate test, and whether the acceptable leakage rate specifications apply only to building components that are used in the construction of the building air barrier.

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.

DEPARTMENT OF CORRECTIONS

NOTICE IS HEREBY GIVEN that Florida Department of Corrections has received the petition for declaratory statement from Jimmy R. Smith. The petition seeks the agency's opinion as to the applicability of Rule 33-401.401, F.A.C., as it applies to the petitioner.

Petitioner alleges that the Department's pending tobacco ban is an unpromulgated rule and an invalid exercise of delegated legislative authority under Chapter 120, F.S.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Janet Holmes, 501 S. Calhoun Street, Tallahassee, FL 32399.

Please refer all comments to: Kendra Jowers, 501 S. Calhoun Street, Tallahassee, Florida 32399.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN that Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida has declined to rule on the petition for declaratory statement filed by Bayshore Yacht & Tennis Club Condominium Association, Inc., on April 15, 2011. The following is a summary of the agency's declination of the petition:

The division declined to issue a statement regarding this matter because the Petitioner withdrew its request for a declaratory statement.

A copy of the Order Declining 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 Division of Florida Condominiums, Timeshares, and Mobile Homes, Department of Business and Professional Regulation, State of Florida, has declined to rule on the petition for declaratory statement filed by Gerald A. Corrigan and Richard Luke, Unit Owners, In Re: Riverside Club, Inc., on May 2, 2010. The following is a summary of the agency's declination of the petition:

The Department declined to issue a declaratory statement because the petitioners withdrew their request for a declaratory statement.

A copy of the Order Declining 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 declined to rule on the petition for declaratory statement filed by Sandpiper Condominium Association, Inc., on May 9, 2011. The following is a summary of the agency's declination of the petition:

The Division declined to issue a Declaratory Statement because it may not issue a statement concerning events that have already taken place; or when it would affect the rights of third parties who are not party to the proceeding; or when it is not provided a complete, current set of governing documents.

A copy of the Order Declining 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 Construction Industry Licensing Board has issued an order disposing of the petition for declaratory statement filed by Don White, R.A.W. Construction on March 29, 2011. The following is a summary of the agency’s disposition of the petition:

The Notice of Petition for Declaratory Statement was published in Vol. 37, No. 18, of the May 6, 2011, Florida Administrative Weekly. The Board considered the Petition at a duly-noticed public meeting held on May 13, 2011. The petition requested the Board’s interpretation of Section 489.105(3), Florida Statutes, and whether a general contractor is licensed to install a natural gas distribution system or natural gas pipelines in the state of Florida without having a certified gas line specialty license. The Board’s Order, filed on June 8, 2011, denies the Petition for Declaratory Statement. Pursuant to Chapter 28-105, Florida Administrative Code and Section 120.565, Florida Statutes, a declaratory statement is not the appropriate means for obtaining a policy statement of general applicability from an agency or to resolving the conduct of another individual.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: G. W. Harrell, Executive Director, Construction Industry Licensing Board, P. O. Box 5257, Tallahassee, Florida 32314-5257.

Please refer all comments to: G. W. Harrell, Executive Director, Construction Industry Licensing Board, P. O. Box 5257, Tallahassee, Florida 32314-5257.

DEPARTMENT OF HEALTH

NOTICE IS HEREBY GIVEN that on June 20, 2011, the Board of Podiatric Medicine has received the petition for declaratory statement from Earl R. Horowitz, DPM. The petition seeks the agency’s opinion as to the applicability of Section 461.003(5), F.S., and Rule 64B18-23.001, Florida Administrative Code, as it applies to the petitioner.

The petition seeks the Board’s interpretation of Section 461.003(5), F.S. and Rule 64B18-23.001, Florida Administrative Code, regarding whether an endovascular obliteration or endovascular ablation of the Greater Saphenous Vein, specifically by a “closure” method of entering through the lower extremity, is within the scope of practice for a podiatric physician in Florida.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Bruce Deterding, Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257.

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:

NONE

Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:

NONE

Section IX
Notices of Petitions and Dispositions
Regarding Non-rule Policy Challenges

NONE

Section X
Announcements and Objection Reports of
the Joint Administrative Procedures
Committee

NONE
