

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

DOOR AND ACCESS SYSTEMS
MANUFACTURERS ASSOCIATION
INTERNATIONAL,

Case #: DCA02-DEC-142

Petitioner.

_____ /

DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the “Commission”) by a petition from DOOR AND ACCESS SYSTEMS MANUFACTURERS ASSOCIATION INTERNATIONAL, (the “Petitioner”), which was received on May 7, 2002.

Based upon the statements in the Petition it is hereby ORDERED:

Findings of Fact

1. The petition is filed pursuant to section 120.565, Florida Statutes, and must conform to the requirements of Rule 28-105.002, *Florida Administrative Code*.

2. The Petitioner is an association whose membership includes manufacturers of garage doors for use in buildings subject to the Florida Building Code and the system of product approval adopted in Chapter 9B-72, *Florida Administrative Code*.

3. The Petitioner has members who desire to have testing entities perform testing on their garage doors within the manufacturing facility based on the inconvenience of transporting garage doors to a remote laboratory for testing.

4. The Petitioner inquires whether testing of garage doors at a manufacturer's facility is permissible pursuant to Rule 9B-72, *Florida Administrative Code*.

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of its rules, including those related to the system of product approval, by entering a declaratory statement.

2. § 9B-72.110(1), *Florida Administrative Code*, states:

A certification of independence shall be provided by a Florida registered architect or professional engineer as applicable or by an officer of the entity, agency or laboratory who is responsible for operation of said entity, agency or laboratory that attests to the following:

(1) The entity, agency or laboratory does not have, nor does it intend to acquire or will it acquire, a financial interest in any company manufacturing or distributing products tested or labeled by the agency.

(2) The entity, agency or laboratory is not owned, operated or controlled by any company manufacturing or distributing products it tests or labels.

(3) The Florida registered architect or professional engineer performing an evaluation does not have nor will acquire, a financial interest in any company manufacturing or distributing products for which the reports are being issued.

(4) The Florida registered architect or professional engineer performing an evaluation does not have, nor will acquire, a financial interest in any other entity involved in the approval process of the product.

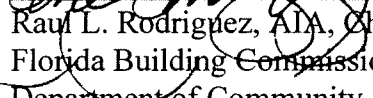
3. Pursuant to the cited rule, when a testing laboratory generates the report demonstrating compliance with the Florida Building Code, it must provide a certification of independence.

However, if the entity will not issue the test report upon which the manufacturer will rely to demonstrate code compliance, such a testing laboratory can be utilized to generate data on which

an approved evaluation entity, certification or listing agency can issue the appropriate documentation of code compliance.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with section 120.68(2)(a), Fla. Stat. (1999), and with Fla. R. App. P. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and with the appropriate District Court of Appeal not later than thirty (30) days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Fla. Stat. (1999).

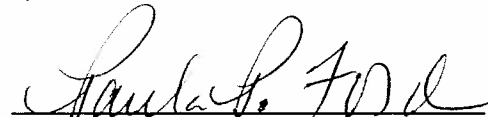
DONE AND ORDERED this 12th of September, 2002, in Coral Gables, Miami-Dade County, State of Florida.



Raul L. Rodriguez, AIA, Chair
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent to the following by
the method indicated on this 13th day of September, 2002.


PAULA P. FORD
Commission Clerk

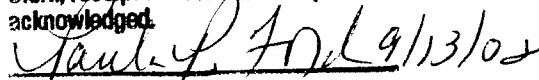
Via U.S. Mail:

Joe R. Hetzel, P.E.
1300 Sumner Avenue
Cleveland, Ohio 44115-2851

Via Hand Delivery:

Mo Madani, Planning Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

FILED AND ACKNOWLEDGMENT
FILED, on this date with the designated
Clerk, receipt of which is hereby
acknowledged.


Paula P. Ford Date
Commission Clerk