

**STATE OF FLORIDA
BUILDING COMMISSION**

In the Matter of

W.W. SCHAFER ENGINEERING &

Case #: DCA05 DEC-073

CONSULTING, P.A.

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the "Commission") by a petition from Warren W. Schaefer, P.E. of W.W. Schaefer Engineering & Consulting, (the "Petitioner"), which was received on April 7, 2005 and amended on April 22 and April 26, 2005. Based upon the statements in the Petition and the materials subsequently submitted, it is hereby ORDERED:

Findings of Fact

1. The petition is filed pursuant to § 120.565, Florida Statutes, and must conform to the requirements of Rule 28-105.002, *Florida Administrative Code*.
2. The Petitioner practices as a Florida licensed professional engineer who has been requested to evaluate tube mullions for windows for use in projects subject to the Florida Building Code.
3. Specifically, the Petitioner asks whether it is acceptable to use his own mullion testing and test report as part of his tube mullion evaluation for multiple window manufacturers' products submitted for approval under Rule 9B-72.070, *Florida Administrative Code*, Approval Method 1(b)?

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of the Florida Building Code by entering a declaratory statement.

2. Rule 9B-72.070, Florida Administrative Code, requires that products shall demonstrate compliance with the Code through one of the following methods:

(a) A certification mark or listing from an approved certification agency indicating that the product is in compliance with the Code. Indication of compliance shall be by certification to standards adopted by the Code.

(b) A test report from an approved testing laboratory, which identifies which products are covered by the test report and provides verifiable documentation indicating the product tested complies with the Code.

(c) An evaluation report from an approved product evaluation entity that covers the subject product and, based upon testing or comparative or rational analysis, or a combination thereof, indicates that the product was evaluated to be in compliance with the Code and that the product is, for the purpose intended, at least equivalent to that required by the Code.

(d) An evaluation report from a Florida Registered Architect or a Florida Professional Engineer developed and signed and sealed, based upon testing or comparative or rational analysis, or a combination thereof and indicates that the product was evaluated to be in compliance with the Code and that the product is, for the purpose intended, at least equivalent to that required by the Code.

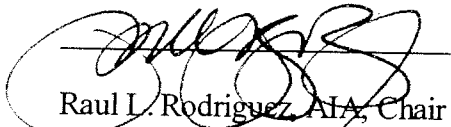
3. Rule 9B-72.070, Florida Administrative Code, does not limit use of an evaluation of a product's components to a single manufacturer.

4. Therefore, Petitioner may use his tube mullion testing and test report for more than one client (manufacturer) requesting the same tube mullion evaluation for their own state approval.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with § 120.68(2)(a), Fla. Stat. (2004), 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

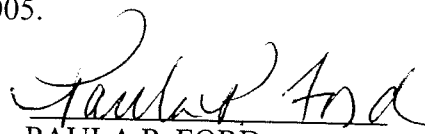
thirty (30) days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Fla. Stat. (2004).

DONE AND ORDERED this 16th day of August, 2005, 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 18th day of August, 2005.


PAULA P. FORD
Commission Clerk

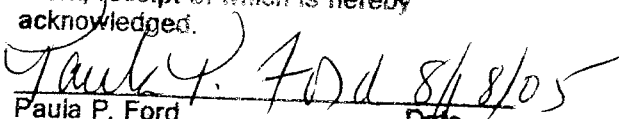
Via U.S. Mail:

Warren W. Schaefer, P.E.
W.W. Schaefer Engineering & Consulting, P.A.
8895 N. Military Trail, Suite 204C
Palm Beach Gardens, FL 33410

Via Hand Delivery

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

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


Paula P. Ford
Commission Clerk

Date