

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

ATLANTIC WINDOWS
& DOORS, INC.,

Case #: DCA06-DEC-294

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Joseph R. Webster, on behalf of ATLANTIC WINDOWS & DOORS, INC., (Petitioner) which was received on October 24, 2006. Based on the statements in the Petition and the material subsequently submitted, it is hereby ORDERED:

Finding 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. Petitioner, ATLANTIC WINDOWS & DOORS, INC., is developing a metal receptor system to be used for window installation in lieu of 1x or 2x lumber.
3. The Petitioner directs two questions to the Commission; whether this window receptor system would be accepted under the new and innovative product ruling subject to Rule 9B-72, Florida Administrative Code and whether its use would be permissible with any window having Florida product approval.

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of Rule 9B-72, Florida Administrative Code (F.A.C.) by entering a declaratory statement.

2. Rule 9B-72.005, F.A.C., states:

Scope.

(1) Products in the following categories as defined by subcategories of subsection 9B-72.010(31), F.A.C., shall be available for approval by the Commission pursuant to Rule 9B-72.090, F.A.C., for use in the state:

- (a) Panel Walls;
- (b) Exterior Doors;
- (c) Roofing Products;
- (d) Skylights;
- (e) Windows;**
- (f) Shutters; and
- (g) Structural components.

(2) This rule applies to approval of products and systems, which comprise the building envelope and structural frame, for compliance with the structural requirements of the Florida Building Code.
(emphasis added)

3. Rule 9B-72.010, F.A.C., states:

Definitions.

The following terms have the meanings indicated.

(31) Sub-category of product or construction system means a specific functionality:

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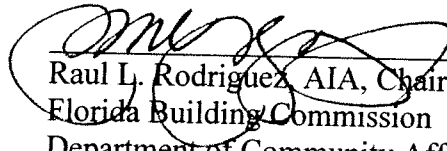
(b) For windows: awning, casement, dual action, double hung, single hung, fixed, horizontal slider, projected, pass through, mullions, and **products introduced as a result of new technology**;

4. In response to the Petitioner's first question, yes, the proposed metal receptor system is covered as products introduced as a result of new technology by Rule 9B-72 F.A.C.

5. The answer to the petitioner's second question is no. The proposed metal receptor system may be approved for its intended use following the appropriate testing. However, the use of the product must be evaluated on a case by case basis and would have to be evaluated by the specific window manufacturer for the specific installation.


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), Florida Statutes, and with Fla. R. App. 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 no 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), Florida Statutes.

DONE AND ORDERED this 24th of April, 2007, 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 28th day of April, 2007.


for PAULA P. FORD
Commission Clerk

Via U.S. Mail

Joseph R. Webster
Atlantic Windows & Doors, Inc.
1210 E. 29th St.
Sanford, FL 32773

Via Hand Delivery

Mo Madani, C.B.O. Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100