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THE FLORIDA LEGISLATURE  
**JOINT ADMINISTRATIVE  
PROCEDURES COMMITTEE**

November 20, 2012

Ms. R. Kathleen Brown-Blake  
Assistant General Counsel  
Department of Business and Professional Regulation  
Office of the General Counsel  
1940 North Monroe Street, Suite 42  
Tallahassee, Florida 32399-2202

**Re: DBPR: Florida Building Commission  
Rules 61G20-4.001 and .002, F.A.C.**

Dear Ms. Brown-Blake:

I have conducted a preliminary review of proposed rules 61G20-4.001, "Procedures," and .002, "Florida Accessibility Code for Building Construction," which were advertised in the Florida Administrative Register on November 6, 2012. I have the following comments.

**61G20-4.001(1):** This subsection incorporates by reference "Form FBC 2012-01, entitled "Request for Waiver," effective October 2012.

The seventh page of this form, under the heading "Certification of Applicant," provides:

I hereby swear or affirm that the applicable documents in support of this Request for Waiver are attached for review by the Florida Building Commission and that all statements made in this application are to the best of my knowledge true and correct.

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This provision appears to be an “oath,” which requires statutory authority. *See* Art. I, § 18, Fla. Const.; § 120.54(1)(e), Fla. Stat. Moreover, it appears to be unenforceable because the applicant is not required to sign before a person authorized to administer oaths. If there is no statutory authority for this oath, the commission may consider using the language contained in section 837.06, Florida Statutes.

**61G20-4.002:**

This rule incorporates by reference “The 2012 Florida Accessibility Code for Building Construction (the Code) as updated by the Commission, effective March 15, 2012 and as amended by the Commission on June 12, 2012.” A copy of this document was not provided for review.

Please provide a copy of this document as soon as possible. Please be advised that a copy of the incorporated materials should be provided to the committee for review at least 21 days prior to adoption of the rule. *See* § 120.54(3)(a)4., Fla. Stat.

As always, please let me know if you have any questions. Otherwise, I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Marjorie C. Holladay". The signature is written in a cursive, flowing style.

Marjorie C. Holladay  
Senior Attorney