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**DS 2018-002**

February 2, 2018

Mr. Mo Madani, Assistant Director  
Florida Building Commission  
2601 Blair Stone Road  
Tallahassee, FL 32399

Re: Public comment to request for Declaratory Statement #DS 2018-002, WRS Development, LLC.  
And Notice to intervene as Affected Party.

Dear Mr. Madani:

I am writing on behalf of the Builders Association of South Florida (BASF), to provide public comment, and provide notice as an Intervening Party, to the above-referenced Request for Declaratory Statement. BASF represents hundreds of builders and subcontractors throughout Miami-Dade, Broward and Monroe Counties, who pay considerable fees to obtain thousands of permits annually.

Thus, our entire membership could be negatively affected by any change to the fee calculation method, and thus, would be a substantially affected party. I have attached the original Declaratory Statement submitted by WRS as reference to the members' comments below.

The Request asks several questions about the basis for establishing and determining the calculation methods for building permit fees. However, in a brief review of the statutory language, it appears that the parameters for fee calculation are clearly stated:

Florida Statutes 553.80 set a maximum limit on the fees that can be charged for a building permit. Generally, the fee should be calculated to pay for the local Building Department to enforce the Florida Building Code and to operate the department to this end. In part, the law states:

- a. "...the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. ...The basis for a fee structure for allowable activities shall related to the level of service provided by the local government and shall include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government." (F.S. 553.80 (7))

On its face, this provision and the remainder of the section seems to provide adequate language and direction, to local governments about how to establish a building permit fee. It states which government-incurred costs can be included, and also, which costs cannot be included, in a fee calculation.

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It seems that the request from petitioners poses numerous other questions which may be beyond what is usually included in a declaratory statement, which would have statewide impact. Perhaps if the petitioner can more clearly define the questions they are seeking guidance on, that would help our members more clearly understand the nature of their specific concerns, and whether or not they will be adversely impacted or not.

If the Commission chooses to dismiss the Request and recommends that the City refile its Request, BASF would request additional time to respond to any subsequent Requests for Declaratory Statement based on a revised request for such statement.

As an Intervening Party, I provide the following legally required information: **Intervenor's Name and contact information:** Builders Association of South Florida, 111 NW 183<sup>rd</sup> Street, Suite 111, Miami Gardens, FL 33169. Phone: 305-556-6300, Fax: 954-639-7107. [www.basfonline.org](http://www.basfonline.org).

**Intervenor's representative:** Ms. Truly Burton, Executive Vice President, Builders Association of South Florida, 111 NW 183<sup>rd</sup> Street, Suite 111, Miami Gardens, FL 33169. Phone: 305-556-6300, Fax: 954-639-7107. I can be reached at [trulyburton@basfonline.org](mailto:trulyburton@basfonline.org)

Once the Commission has prepared a response to this Request for Declaratory Statement, please notify me per the above e-mail or mailing address. Thank you for the opportunity to present the Association's comments. If you have questions or need other information about the above, please feel free to reach me via e-mail at [trulyburton@basfonline.org](mailto:trulyburton@basfonline.org), or at my office number, provided above.

Sincerely,



Truly Burton  
Executive Vice President  
And Government Affairs Director

DS 2018-002

WRS DEVELOPMENT LLC

Building Code Inspector Board  
2601 Blair Stone Road  
Tallahassee, FL 32399

RECEIVED  
CIU Mail Intake  
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Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/2/2018
File #	

FORWARDED FROM

JAN 09 2017

Dear Sir/Madam:

Per our discussions with René at the Florida Building Commission, we are requesting a **CIU Declaratory Statement** regarding Florida Building Code Chapter 109.3 - Building Permit Valuations (see below).

The Building Official of City of Riviera Beach, Ladi A. March ("BO") is interpreting that she has absolute authority and discretion to determine the construction cost and hence amount of the permit fees without any interference from any person (including the City Council members). We would like to get the following clarifications from the Florida Building Commission ("FBC"):

1. Does FBC Code include any provision confirming that City Council has no authority to intervene to offer solution for permit valuation, when there is a big difference between the Developer and BO, particularly when Developer is not getting "fair & equal treatment per constitutional rights (Equal Protection Clause contained in Fla. Const. art. I, §2, and the 14th Amendment to the U.S. Constitution.)"? In some Projects City Council had even waived full or partial permit fees; would that be allowed to reduce the fee to a more reasonable level while retaining the exaggerated valuation?
2. Does FBC have any provision for appealing the BO valuation? Is there provision for paying the permit fees under duress and recovering after completion?
3. If Building Official is not properly licensed, who can set building valuation and permit fees?
4. What process does FBC have to file a complaint for such actions and get fastest response?

I would also like to share with you the following points to provide background to the current dilemma.

1. The BO, Ladi March recently changed her license names to Goldwire, and has previously used Stepps. She has two CGC licenses, and Miami Dade County has administratively suspended her CGC license 1511460. Ladi March acted as BO from Jan 11, 2017, but her provisional license as BO was not issued until May 7, 2017.
2. BO is demanding our project, Amrit Wellness Resort & Spa ("WRS"), to pay the permit fee based on a valuation of \$175 million, when it should be around \$110 million based upon five methods such as actual trade bids, ICC calculation, valuation of similar project next to WRS, estimate from third party General Contractor ("GC") and agreement with affiliated GC. City determined a \$100 per square foot valuation for a similar project ¼

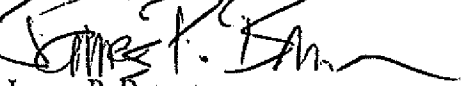
8895 North Military Trail, Suite 201E, Palm Beach Gardens, FL 33410, USA  
Phone +1-561-627-7988

## WRS DEVELOPMENT LLC

- mile away (Vista Blue). BO is trying to charge valuation based on \$165 to \$170 per square foot cost for WRS. WRS is trying to get "fair & equal treatment" from BO and City in calculating valuations.
3. Human Dynamics –A WRS team member was contacted by State Attorney's office and was told that City Council and Building Official are being investigated. There has been Five City Managers in last year and last City Manager, Jonathan Evans, and City are in litigation. Current interim City Manager is weak; we understand she has authority to fire BO but the Council does not. BO has strong support from one Council member, the other four council members are sympathetic to WRS Project and want to help.
  4. City & BO are already in litigation with Palm Beach Cold Storage where again the reason behind the dispute is BO's approach.
  5. There is lots of negative press regarding the actions of the City of Riviera Beach and its officials. WRS does not want to get caught into such controversy.

Please let me know, if you need further information.

Yours very truly



James P. Brown  
Manager  
772.485.9639

### FLORIDA BUILDING CODE 6<sup>TH</sup> EDITION

#### SECTION 109 FEES

##### [A]109.1 Payment of fees.

A *permit* shall not be valid until the fees prescribed by law have been paid, nor shall an amendment to a *permit* be released until the additional fee, if any, has been paid.

##### [A]109.2 Schedule of permit fees.

On buildings, structures, electrical, gas, mechanical, and plumbing systems or *alterations* requiring a *permit*, a fee for each *permit* shall be paid as required, in accordance with the schedule as established by the applicable governing authority.

##### [A]109.3 Building permit valuations.

The applicant for a *permit* shall provide an estimated *permit* value at time of application. *Permit* valuations shall include total value of work, including materials and labor, for which the *permit* is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the *building official*, the valuation is underestimated on the application, the *permit* shall be denied, unless the applicant can show detailed estimates to meet the approval of the *building official*. Final building *permit* valuation shall be set by the *building official*.

**From:** [Truly Burton](#)  
**To:** [Vogel, William](#)  
**Cc:** [Madani, Mo](#)  
**Subject:** BASF Notice to Intervene/ Comment Letter re WRS Development's Request for Declaratory Statement  
**Date:** Monday, February 05, 2018 3:50:22 PM

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Good afternoon, Justin. I noticed on the Florida Building Commission's site, that this issue is scheduled for the Commission's consideration on February 13<sup>th</sup>, 2018.

From the Staff Analysis attached to the Item, it seems that the recommendation is to deny the request. Given that posture, please leave the BASF's letter on, as a Public Comment, rather than as a petition to intervene .

I will check the agenda to see what final Action the Commission takes. If they choose to do something else, other than accept the Staff Analysis, I'll discuss other options with our attorney on this one.  
Thanks, TB

**Truly Burton**  
**Executive Vice President**  
**Builders Association of South Florida**  
**111 NW 183<sup>rd</sup> Street, Suite 111**  
**Miami Gardens, FL 33169**  
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