

FLORIDA BUILDING COMMISSION

PRODUCT APPROVAL POC

JUNE 5, 2015 TELECONFERENCE MEETING SUMMARY REPORT

FRIDAY, JUNE 5, 2015

MEETING SUMMARY AND OVERVIEW

At the Friday, June 5, 2015 teleconference meeting the POC considered regular procedural issues including product approval and entities statistics reports; a status report on conditional approvals from the April 2015 meeting; with the exception of one DBPR application (FL 12875-R2) all were resolved; review and approval of product and entity applications; and a review of DBPR approved product approval applications. In addition, the POC discussed the complaint deferred from the April 2015 meeting against Zion Tile Corporation of Miami regarding FL 16057-R1. Specific actions include voting to recommend that the Commission dismiss the complaint and related investigation regarding Zion Tile Corporation of Miami's product FL 16057-R1, on the basis there is insufficient evidence demonstrating a Florida approved product (FL 16057-R1) is deficient, and therefore the Commission has no jurisdiction on the matter.

Background and Supporting Documents

Relevant background and supporting documents are linked to each agenda item. The Agenda URL for the June 5, 2015 meeting is as follows:

http://www.floridabuilding.org/fbc/commission/FBC_0615/Product_Approval/Product_Approval_Agenda.htm

AGENDA ITEM OUTCOMES

A.1. OPENING AND MEETING PARTICIPATION

The meeting was opened at 10:00 AM once a quorum was established, and the following POC members participated (5 of 7 members):

Jeff Stone (Chair), Jay Carlson, David Compton, Nan Dean, and Brian Swope.

Members Not Participating:

Robert Hamberger and Tim Tolbert.

A.2. DBPR STAFF PRESENT

Robert Benbow, Joe Bigelow, Nick Duval, April Hammonds, Robert Lorenzo, and Mo Madani.

Meeting Facilitation and Reporting

Product Approval POC meetings are facilitated and meeting reports drafted by Jeff Blair from the FCRC Consensus center at Florida State University. Information at: <http://consensus.fsu.edu/>



CONSENSUS CENTER

A.3. AGENDA REVIEW

The POC voted unanimously, 4 - 0 in favor, to approve the agenda for the June 5, 2015 meeting as amended. Following are the key agenda items approved for consideration:

- To Consider/Discuss Product Approval Program Issues
- To Consider/Decide on Approval of Products and Product Approval Entities

Amendment:

The agenda was reordered to discuss agenda item C.3. prior to agenda item C.2.

The complete Agenda is included as “*Attachment 1*”.

(See Attachment 1—Agenda)

A.4. STATEMENT OF TELECONFERENCE PARTICIPATION PROCESS

Jeff Blair reviewed the teleconference participation process with participants reminding them that it is important for participants to keep their phones on mute to minimize background noise, not to put their phones on hold, and to wait until invited to speak to avoid confusion and chaos. Jeff emphasized that all participants will have ample time to speak on all agenda items. Participants were reminded to state their names each time they speak.

B. REVIEW AND APPROVAL OF THE APRIL 2, 2015 MINUTES

MOTION—The POC voted unanimously, 4 - 0 in favor, to approve the April 2, 2015 meeting minutes as posted/presented.

Amendments:

None were offered.

C. 1. PRODUCT APPROVAL AND ENTITIES STATISTICS REPORT

Mo Madani reviewed the product and entities statistics reports with participants and answered members’ questions. Mo reported that the total number of product approval applications submitted for approval to the 2010 Code is 6,964 and to the 2014 Code is 2,200; the total number of products submitted for approval to the 2010 Code is 31,980 and the 2014 Code is 9,804; and the total number of entities submitted for approval to the 2010 Code is 379 and the 2014 Code is 379. The report is linked to the Product Approval POC’s agenda.

C.2. REPORT ON CONDITIONAL APPROVALS FROM THE FEBRUARY 5, 2015 MEETING

Commissioner Stone noted that all of the conditions were met for the conditional approvals reported at the April 2, 2015 meetings, with the exception of FL 12875 R2 (previously submitted for DBPR approval). At the April 2015 meeting the Commission voted not to ratify the approval of FL 12875 R2 submitted for DBPR approval, on the basis that the application needs to be revised to remove all references to OSB from the evaluation report (not substantiated by testing), and product .2 be removed from the application and submitted for approval using compliance Method 1 (d), an evaluation report from a Florida Registered Architect or a licensed Florida Professional Engineer. Mo reported that on April 16, 2015 staff sent an email to the applicant informing them that the product was not ratified and the relevant revisions required for achieving product approval. Mo reported that the applicant requested a deferral to provide them with sufficient time to address the conditions that must be met for approval of the product.

POC Actions:

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission defer action on FL 12875 R2 to provide time for the applicant to comply with the relevant conditions required for approval of the product.

C.3. COMPLAINT AGAINST ZION TILE CORP. FL #16057

Background:

A complaint was made by Dan Arguelles regarding roof tile products made by Zion Tile Corp. Mr. Arguelles alleged that the Zion Tile Corp. was distributing non-compliant roof tiles in Miami-Dade County based on the approval of product #FL 16057 and the issue was discussed at the August 2013, October 2013, December 4, 2013, and again at the April 2, 2015 meetings (see related meeting reports for details). Legal staff April Hammonds advised that the Product Approval Rule requirements pertaining to alleged product deficiencies provides that product approval suspensions or revocations shall be initiated for a failure to correct manufacturing deficiencies required to bring the product within specifications of the originally approved product, and that according to their Quality Assurance Entity, Keystone Certifications, Inc., the manufacturer was in process of making the changes prescribed by Keystone to correct identified issues. Following extensive public comment and discussion on both sides of the issue April advised that the Rule requires that the Commission shall initiate an investigation based on a written complaint containing substantial material evidence by any “substantially affected party”, and this is a high threshold to achieve, and typically a “substantially affected party” is determined to be a homeowner impacted by the matter or a building official acting in their official capacity.

In addition, during the discussions it came to light that Zion Tile and Artezanos, Inc. were currently in litigation. On this basis April Hammonds strongly recommended that the proper course of action would be a recommendation to the Commission to close the matter and defer any action pending resolution of the civil litigation. April advised it is inappropriate for the Commission to render recommendations on a matter that has civil litigation pending.

At the December 4, 2013 Product Approval POC meeting the POC voted to recommend the Commission initiate an investigation regarding FL#16057 in accordance with the provisions of Rule 61G20-3.013 (Revocation or Modification of Product Approvals and Entity Certifications) and 61G20-3.014 (Investigations). At the December 13, 2013 Commission meeting the Commission voted to defer any action pertaining to this matter pending resolution of civil litigation between the

parties, and to instruct Keystone Certifications, Inc. to remain involved in monitoring and reporting to the Commission on the resolution of quality assurance issues.

On February 17, 2015 DBPR staff received a letter from Dan Arguelles, Artenzanos, Inc., formally requesting the continuation of his original complaint against Zion Tile Corporation of Miami's "Alhambra Homemade Clay Roof Tile" FL #16057 product approval. Mr. Arguelles alleged that the product is non-compliant with the thickness requirements on which the product approval is based.

On March 4, 2015 DBPR staff received an email from Mario Garcia representing Zion Tile Corporation of Miami (Zion Tile) responding to the complaint. Mr. Garcia noted that the Venetian Pool project site where the tile is alleged to be deficient is relying on Miami-Dade County NOA# 13-1113.07 for local product approval, and not FL# 16057 which is for State product approval. Mr. Garcia indicated that Zion Tile is working with the City of Coral Gables and Miami-Dade County officials to resolve any issues related to the Venetian Pool project in question, and noted that the complaint is being made by a direct competitor (Artenzanos, Inc.) and not from an owner, architect, contractor, roofer or anyone associated with the purchase of Alhambra tiles. Mr. Garcia further stated that the tile samples acquired by Mr. Arguelles were obtained "illegally" from job sites.

Jamie Gascon representing Miami-Dade County indicated during the meeting that Zion Tile and Miami-Dade County are working to address issues to ensure compliance with the product approval requirements associated with Miami-Dade County NOA# 13-1113.07 for the Venetian Pool project in question.

At the April 2, 2015 meeting DBPR staff Mo Madani and April Hammonds provided the POC with an overview of key technical and legal issues respectively. Mo noted that the complaint to DBPR is for FL #16057 a State product approval. Staff noted that the complaint letter submitted by Mr. Arguelles and all of the supporting documentation recently submitted reference Miami-Dade County NOA# 13-1113.07, which is not the basis for the approval of FL #16057 which was submitted for State product approval through the evaluation report from a licensed Florida Professional Engineer compliance method. Mo and April both noted that the *5th Edition of the Florida Building Code (2014)* would be effective on June 30, 2015, and all product approvals will have to be revised to demonstrate compliance with the 2014 Code. This would provide the POC with an opportunity to evaluate whether to approve the product in questions based on the documentation submitted to demonstrate compliance with the Code and the requirements of the Product Approval Rule including licensure with a Quality Assurance program.

Mo noted that as a result of his contacting Keystone Certifications, Inc. regarding the status of Zion Tile's Quality Assurance Program he received an email on February 17, 2015 from Jon Hill stating that Keystone Certifications, Inc. suspended the Keystone Quality Assurance Licensure for Zion Tile Corporation of Miami for non-compliance with Program requirements, affecting FL #16057-R1. Mo noted that Zion Tile indicated to him that they are in the process of resolving quality assurance issues, and Mo reported it is normal and customary for DBPR to work with product approval holders to resolve issues such as compliance with the quality assurance program requirements of the Product Approval Rule. Mo noted that once he received the suspension notice from Keystone Certifications, Inc. he asked Jon Hill to provide the reasons for the suspension, and Jon indicated that he could not provide the reasons.

During the April meeting Jon Hill was asked for details regarding the suspension, and reported that due to confidentiality requirements he could not provide the POC with details on the suspension of

the Keystone Quality Assurance Licensure for Zion Tile Corporation of Miami beyond the general statement that the licensure was suspended for non-compliance with Program requirements.

April Hammonds advised that the Product Approval Rule requirements pertaining to alleged product deficiencies provides that product approval suspensions or revocations shall be initiated for a failure to correct manufacturing deficiencies required to bring the product within specifications of the originally approved product, and Zion Tile represent they are working to resolve outstanding issues. April further noted that there was no documentation presented by the claimant (Mr. Arguelles) to establish a chain of custody for the tile samples alleged to be deficient relevant to FL #16057. April reminded the POC that the Product Approval Rule (Rules 61G20-3.013 and 61G20-3.014) provides that the Commission is authorized to initiate an investigation based on a written complaint containing substantial material evidence by any “substantially affected party”, and this is a high threshold to achieve, and typically a “substantially affected party” is determined to be a homeowner impacted by the matter or a building official acting in their official capacity. April recommended that the POC wait until the June meeting to decide whether to take any formal action pending resolution of the quality assurance issue, and to determine whether the product is submitted for approval to the 2014 Code, at which time the POC will have an opportunity to evaluate the submittal documentation. The POC was reminded that issues related to the Venetian Pool project are based on Miami-Dade County NOA# 13-1113.07, and are a local product approval matter to be resolved at the local level.

At the April 2, 2015 meeting the POC discussed the issue at length expressing concern that the Commission should be able to initiate an investigation and if necessary revoke a product approval in an expeditious manner, and that although investigations and revocations are allowed in the Rule, the threshold required to do so is time consuming as a result of the administrative appeal rights requirements of Florida law (Chapter 120, F.S.). The POC discussed the fact that they did not have any specifics on why Keystone Certifications suspended the quality assurance program licensure for Zion Tile Corp., and without detail it is not possible to objectively evaluate what the correct course of action should be regarding the product approval for FL 16057. On this basis, the POC agreed that they would require Keystone Certifications Inc. to provide full documentation to the Commission (DBPR) regarding the reason(s) they suspended the Quality Assurance Program licensure for Zion Tile Corporation of Miami, and they would defer any formal action on the complaint until the June 5, 2015 POC meeting. At the April 14, 2015 meeting the Commission voted to require Keystone Certifications Inc. to provide full documentation to the Commission (DBPR) regarding the reason(s) they suspended the Quality Assurance Program licensure for Zion Tile Corporation of Miami.

Overview of the June 5, 2015 Meeting Discussion on the Issue:

At the June 5, 2015 meeting staff provided an overview of the scope of the investigation regarding the complaint, an overview of which is detailed in the background information provided above. Documentation of correspondence from the Complainant (Dan Arguelles, Artezanos, Inc.), the Respondent (Anthony Dieguez, legal counsel representing Zion Tile Corporation of Miami), and Keystone Certifications, Inc. (Product Quality Assurance Entity) is linked to the agenda.

To summarize the documentation submitted, subsequent to the April 2, 2015 meeting Keystone Certifications, Inc. (Keystone), provided the requested documentation to DBPR regarding the reasons that Zion Tile’s licensure in the Keystone Quality Assurance (QA) Program was suspended, and indicating that Keystone provided Zion Tile with conditions for reinstatement. Zion Tile provided a response to Keystone in a letter dated May 23, 2015 agreeing to comply with and provide documentation regarding meeting the conditions for reinstatement with the Keystone QA licensure

program. Jon Hill, President Keystone Certifications, Inc., responded to Zion Tile in a letter dated May 27, 2015 and indicated the specific actions required for Keystone to reinstate Zion Tile's QA licensure. In addition to the referenced documents, Dan Arguelles also submitted a written summary of his complaint against Zion Tile in a letter dated May 13, 2015.

At the June 5, 2015 POC meeting, following a brief reminder by DBPR staff regarding the scope of the Commission's authority for conducting an investigation relative to a state approved product, Jamie Gascon, Miami-Dade County, was asked to provide an overview of what had transpired regarding the use of Zion Tile products submitted for approval under a Miami-Dade County NOA. Jamie reported that Miami-Dade County was working with Zion Tile to ensure that all products installed complied with the requirements of the NOA. Jamie reported that testing was conducted to ensure only compliant products were used and any non-compliant products were not installed.

Steve Ulrich, Keystone Certifications, Inc., reported that Zion Tile's licensure in the Keystone Quality Assurance Program was either already reinstated or would be reinstated on June 5, 2015 (the date of the Product Approval POC meeting). Steve noted that Zion Tile had complied with the conditions required for reinstatement of their licensure in the Keystone Quality Assurance Program.

The Complainant, Dan Arguelles, was provided with an opportunity to summarize the basis for his complaint against Zion Tile Corporation of Miami. Dan alleged that Zion Tile was using non-compliant tile submitted for approval under FL 16057 R1, and that testing done to demonstrate compliance with the requirements of the Code for use of the product were "suspect". Under questioning from April Hammonds Dan provided no substantial documentation of product deficiencies related to the installation of products using a Florida product approval as the basis for demonstrating compliance.

The Respondent, Anthony Dieguez, legal counsel representing Zion Tile Corporation of Miami, was afforded an opportunity to respond to the Complaint. Anthony noted that Zion Tile's QA licensure was reinstated, and that he agreed with DBPR staff that issues related to products submitted for approval using an NOA are not relevant to the Commission, and there was no evidence substantiating a problem with a state approved product, and therefore the complaint should be dismissed.

Following questions and answers, and an opportunity for public comment and POC discussion, the POC took the following action:

POC Actions:

MOTION—The POC voted unanimously, 5 – 0 in favor, to recommend that the Commission dismiss the complaint and related investigation regarding Zion Tile Corporation of Miami's product FL 16057-R1, on the basis there is insufficient evidence demonstrating a Florida approved product (FL 16057-R1) is deficient, and therefore the Commission has no jurisdiction on the matter.

All documentation referenced in this summary are linked to agenda item. C.3. at the following URL: http://www.floridabuilding.org/fbc/commission/FBC_0615/Product_Approval/Product_Approval_Agenda.htm.

D.1. PRODUCT AND ENTITY APPLICATIONS CONSENT AGENDA

Commissioner Stone presented the consent agenda for entities by asking if any participants' wished to have any entity applications pulled from the consent agenda for individual consideration. There were no entity applications pulled for individual consideration.

Commissioner Stone presented the consent agenda for approval of products by asking if any participants' wished to have any applications pulled from the consent agenda for individual consideration. At the request of Do Kim there were two product applications pulled from the consent agenda of products recommended for approval to the 2014 Code. Do Kim requested that FL 9103-R3 and FL 9190-R3 be pulled from the consent agenda for approval, and be conditionally approved to allow him to correct the names in the applications.

POC Actions:

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the consent agenda of product approval entities recommended for approval as posted.

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the consent agenda of products recommended for approval to the 2010 Code as posted.

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission approve the consent agenda of products recommended for approval to the 2014 Code as amended (removing products FL 9103 and FL 9190 from the consent agenda for individual consideration).

MOTION—The POC voted unanimously, 5 - 0 in favor, to recommend the Commission conditionally approve products FL 9103-R3 and FL 9190-R3 to allow the applicant to correct the names in the applications.

D.2. PRODUCT APPROVAL APPLICATIONS WITH DISCUSSION OR COMMENTS

Jeff Blair presented the products with discussion and public comment. Following are the POC's recommendations on the eleven (11) product approval applications submitted for approval to the 2014 Code with public comment(s):

- The POC recommends the Commission approve product FL 8363 R5 (5 – 0 in favor);
- The POC recommends the Commission conditionally approve product FL 11217 R2 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor);
- The POC recommends the Commission conditionally approve product FL 15214 R1 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor);
- The POC recommends the Commission approve product FL 15534 R2 (5 – 0 in favor);
- The POC recommends the Commission conditionally approve product FL 16326 R1 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor);
- The POC recommends the Commission approve product FL 17632 (5 – 0 in favor);
- The POC recommends the Commission approve product FL 17633 (5 – 0 in favor);
- The POC recommends the Commission conditionally approve product FL 17678 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor);
- The POC recommends the Commission conditionally approve product FL 17679 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor);
- The POC recommends the Commission conditionally approve product FL 17733 based on the conditions listed in DBPR staff's recommendation (5 – 0 in favor); and,
- The POC recommends the Commission approve product FL 17734 (5 – 0 in favor).

The complete report of POC recommendations on product and entity applications is available linked to the Commission's June 5, 2015 agenda.

D.3. DBPR APPLICATIONS

Staff noted that the recommendations for the DBPR applications are linked to the June 5, 2015 Product Approval POC agenda found on-line. Commissioner Stone noted that there were no public comments provided for products submitted for approval to the 2010 or the 2014 Code. All applications were approved, and there was no action required of the POC.

E.1. PUBLIC COMMENT

Commissioner Stone invited members of the public to address the Commission on any issues under the Commission's purview.

Public Comments:

- Jamie Gascon, Miami-Dade County: expressed concern that FL 12875 R2 which was not ratified for approval by the Commission, still reflects an approved status on the BCIS since it was submitted for DBPR approval.
- DBPR Staff: indicated they understand Jamie's concerns, but noted that the BCIS will indicate the product was not ratified by the Commission.
- Dwight Wilkes: requested an update on Jim Richmond's health following his accident.
- April Hammonds: provided participants with an update on Jim's recovery.

E.2. POC MEMBER COMMENT

Commissioner Stone invited POC members to offer any general comments to the POC.

There were no POC member comments offered.

E.3. STAFF MEMBER COMMENT

Commissioner Stone invited DBPR staff members to offer any general comments to the POC.

There were no staff member comments offered.

POC RECOMMENDATIONS FOR COMMISSION ACTION

The POC recommends the following actions to the Florida Building Commission:

- 1.) The POC recommends the Commission take action on product and entity applications as recommended by the POC and reflected in DBPR staffs' product and entity approval report.
- 2.) The POC recommends that the Commission defer action on FL 12875 R2 to provide time for the applicant to comply with the relevant conditions required for approval of the product.
- 3.) The POC recommends the Commission dismiss the complaint and related investigation regarding Zion Tile Corporation of Miami's product FL 16057-R1, on the basis there is insufficient evidence demonstrating a Florida approved product (FL 16057-R1) is deficient, and therefore the Commission has no jurisdiction on the matter.

AGENDA ITEM REQUESTED AT THE APRIL 2, 2015 MEETING

- Overview of the Product Approval Rule complaint process, and the Chapter 120 administrative appeal process.

NEXT STEPS

The POC will meet August 10, 2015 to provide recommendations to the Commission on Product Approval System relevant issues for the August 18, 2015 Commission meeting.

F. ADJOURN

Commissioner Stone, POC Chair, thanked POC members, staff and the public for their attendance and participation, and adjourned the meeting at 11:30 AM on Friday, June 5, 2015.

ATTACHMENT I
MEETING AGENDA

FLORIDA BUILDING COMMISSION
PRODUCT APPROVAL PROGRAM OVERSIGHT COMMITTEE
(POC)
FRIDAY, JUNE 5, 2015 10:00 AM
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
1940 NORTH MONROE ST. —TALLAHASSEE, FLORIDA 32399
WEB URL: [HTTPS://GLOBAL.GOTOMEETING.COM/JOIN/548385773](https://global.gotomeeting.com/join/548385773)
JOIN THE CONFERENCE CALL:
UNITED STATES (TOLL-FREE): 1 866 899 4679
ACCESS CODE: 548-385-773
AUDIO PIN: SHOWN AFTER JOINING THE MEETING
MEETING ID: 548-385-773

MEETING OBJECTIVES

- Ø To Consider/Discuss Product Approval Program Issues
- Ø To Consider/Decide on Approval of Products and Product Approval Entities

PRODUCT APPROVAL POC MEMBERS

Jeffrey Stone-Chair, Tim Tolbert, Brian Swope, Nanette Dean, David Compton, E.J. Carlson, Robert Hamberger.

MEETING AGENDA—JUNE 5, 2015

All Agenda Times—including Adjournment—are Approximate and Subject to Change

<i>10:00AM</i>	A)	Call to Order 1. Roll call of POC Members 2. Identification of Staff/Attendees 3. Review and Approval of Agenda 4. Statement on Teleconference Participation Process
	B)	Review & Approve Agenda & April 2, 2015 Minutes
	C)	Product Approval Program Issues: 1. Product Approval & Entities Statistics Report 2. Report on conditional approvals from the April 2, 2015 meeting (All Conditional Approval Requirements were met and completed from the April Reports)

		3. Continuation of complaint against Zion Tile Corp. FL #16057 by Dan Arguelles of Artezanos Inc.
	D)	Department of Business and Professional Regulation Reports: 1. Review of Product Approval & Entity Applications 2. Product Approval Applications with Comments (2010) (2014) 3. DBPR Applications (2010) (2014)
	E)	Public/POC/Staff Comments
	F)	<i>Adjourn</i>

STAFF CONTACTS:

Zubeyde O. Binici, Zubeyde.Binici@myfloridalicense.com ; (850) 717-1837

Robert Benbow, Robert.benbow@myfloridalicense.com

Mo Madani, Manager

Teleconference Process/Etiquette:

[URL:http://www.floridabuilding.org/fbc/meetings/1_meetings.htm](http://www.floridabuilding.org/fbc/meetings/1_meetings.htm)

Note: This document is available to any person requiring materials in alternate format upon request. Contact the Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2100 or call 850-487-1824.