

# The City of West Palm Beach



"The Capital City of the Palm Beaches"

TO: Paula Ford, Clerk of the Commission  
Department of Community Affairs  
Building Codes and Standards Office  
2555 Shumard Oak Blvd.  
Tallahassee, FL 32399-0300

DWA08-DEC-205

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

Miriam Snipes  
Deputy Agency Clerk

Date

7/17/08

## Petition for Declaratory Statement Before the Florida Building Commission

The Petitioner, City of West Palm Beach, Florida, Construction Services Department, pursuant to Sections 120.565 and 553.77.(1)(c), Florida Statutes, and Rule Chapter 28-105, Florida Administrative Code, hereby submits a request for a declaratory statement from the Florida Building Commission. As grounds for this request the petitioner submits the following:

### Petitioner's Name and Address

NAME: City of West Palm Beach, Construction Services Department  
Neil K. Melick, CBO, Department Director  
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### Statutory Provision on which the Declaratory Statement is sought

As the local agency responsible for the enforcement of the provisions of the Florida Building Code, we are requesting clarification as to the intent of Section 301.13 of the Florida Building Code, Mechanical, 2004 Edition.

### Background:

A permit application for a proposed new 5-story, 165 room hotel with integral parking garage has been submitted to our department. In response to plan review comments requesting wind resistance data for all outdoor mechanical appliances, the permit applicant has requested a variance to the technical provisions of Section 301.13 of the Florida Building Code, Mechanical, from the local Construction Board of Adjustments

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and Appeals. The local Board has granted the variance based in part on the following concerns:

1. The designers of the project have not been able to find a major manufacturer of outdoor air conditioning appliances who can or will provide documentation showing they have tested or designed their outdoor appliances for wind resistance.
2. There are two related declaratory statements from the Florida Building Commission (DCA07-DEC-182, DCA07-DEC-183), which both state that exterior mounted mechanical appliances, equipment and their supports that are subject to the forces of wind shall be designed to withstand the applied wind force. However, both of these declaratory statements are in relation to cooling towers. Therefore it is unclear as to whether these requirements apply to all outdoor mechanical appliances or to cooling towers exclusively, since cooling towers are defined as structures in Section 908.1 of the Florida Building Code, Mechanical.
3. Section 301.13 of the Florida Building Code, Mechanical, calls for mechanical appliances exposed to wind to be designed and installed to resist wind pressures in accordance with the Florida Building Code, Building. Section 1609.1 of the Florida Building Code, Building, requires structures to be designed to withstand the minimum wind loads prescribed within this section. It was the opinion of the Board that the application of the requirements of section 1609 of the Florida Building Code, Building to mechanical appliances was inappropriate since section 301.13 of the Florida Building Code, Mechanical uses the word "resist" rather than "withstand" as stated in Section 1609.1 of the Florida Building Code, Building.

**Request:**

It is our intention as the local agency responsible for the enforcement of the provisions of the Florida Building Code to appeal the decision of the local Construction Board of Adjustments and Appeals. To this end we are requesting a response to the following questions:

1. Is it the intent of Section 301.13 of the Florida Building Code, Mechanical that appliances be designed to resist wind pressures even if the permit applicant is unable to find an appliance manufacturer who will provide supporting wind resistance documentation?
2. Does the use of the phrase "appliances... shall be designed" in Section 301.13 mean that it is the responsibility of the appliance manufacturer to design their outdoor appliances to resist wind pressures since the manufacturer is the designer of the appliance?
3. Is it the intent of Section 301.13 of the Florida Building Code, Mechanical that ALL mechanical appliances and equipment, including package units, condensing units and

fans that are exposed to wind be designed and installed to resist wind pressures in accordance with section 1609 of the Florida Building Code, Building?

4. If the answers to the above questions are in the affirmative, is there a different standard to be applied to mechanical appliances, equipment and their supports due to the use of the word "resist" in Section 301.13 of the Florida Building Code, Mechanical rather than the use of the word "withstand" as stated in Section 1609.1 of the Florida Building Code, Building?

Respectfully submitted this 17th day of July, 2008.

Neil K. Melick, CBO  
City of West Palm Beach, Construction Services Department  
Department Director