

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

OMNICRETE DEVELOPMENT, INC.,

Case #: DCA08-DEC-168

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Leonard R. Terry of Omnicrete Development, Inc., which was received on June 10, 2008. Based on the statements in the petition and the material subsequently submitted, it is hereby ORDERED:

Findings of Fact

1. The petition is filed pursuant to, and must conform to the requirements of Rule 28-105.002, Florida Administrative Code.
2. Petitioner has developed a system of construction using autoclaved, aerated concrete [AAC] as a "stay in place" form which later becomes an insulative, fire proof (one inch per hour) veneer to which an interior or exterior finish can be directly applied. The monolithic center core, that is five and one half inches thick. is poured with a 3,000 psi concrete pea gravel pump mix similar to conventional downpours of concrete block webs at corners and around windows of conventional block systems.
3. The Petitioner intends to use this system for construction projects subject to the Florida Building Code.

4. The Petitioner asks whether this construction system is exempt from product approval pursuant to Rule 9B-72, Florida Administrative Code?

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of Section 553.842, Florida Statutes (2008), and Rule 9B-72, Florida Administrative Code, by entering a declaratory statement.

2. Rule 9B-72.005, Florida Administrative Code, states:

(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.

3. Section 553.8425(1), Florida Statutes (2007), provides that, in relation to local product approval, “products or systems of construction shall demonstrate compliance with the structural windload requirements of the Florida Building Code”

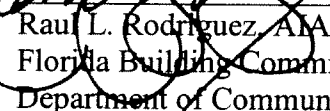
4. No authority exists providing a general exemption of the Petitioner’s product from approval by the State or by local authorities having jurisdiction.

5. To the extent that Petitioner’s system is constructed in accordance with a site-specific plan or design, the system itself falls outside the scope of state approval

established by Rule 9B-72. Elements of that system, however, may be subject to state or local approval, such as the forms that the Petitioner incorporates into his wall system.

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, FL 32399-2100, and with the appropriate District Court of Appeal no later than thirty 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 16 of JANUARY, 2009, 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 Blvd.
Tallahassee, FL 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 3rd day of Jan, 2009.

for 
PAULA P. FORD
Commission Clerk

Via U.S. Mail

Leonard R. Terry
Omniconrete Development, Inc.
2455 Ocean Shore Boulevard,
Suite B-208,
Flagler Beach, Florida 32136

Via Hand Delivery

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