

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

MODULAR BUILDING INSTITUTE,

Case #: DCA08-DEC-209

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Tom Hardiman of the Modular Building Institute, which was received on July 21, 2008, and subsequently amended on July 24, 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. The Petitioner is a trade association comprised of commercial modular building manufacturers and product vendors for the modular building industry a substantial number of which manufacture buildings that are required to comply with the Florida Building Code. The Petitioner regularly represents its members before the Department and the Commission and seeking an interpretation of the Florida Building Code as it relates to the manufactured building industry is an appropriate function for a trade association.

3. The Petitioner raises the issue of manufactured buildings on which construction has begun prior to the effective date of the 2007 Edition of the Florida Building Code pursuant to a set of plans approved pursuant to Part I, Chapter 553, Florida Statutes. The Petitioner proposes that the date on which an application is made with the local building department where the building is to be sited is inappropriate in the context of manufactured buildings. Construction activity authorized by state approval begins on manufactured buildings long before a permit is sought from a local government.

4. Specifically, the Petitioner requests that the Commission interpret Section 105.3, Florida Building Code, Building Volume, and determine the point at which manufacturers must make the transition to the new edition of the Building Code?

5. The Department of Community Affairs acts as the authority having jurisdiction with regard to construction activity occurring within a manufactured building plant. Work is authorized to commence upon approval of the plans for a particular building.

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of the Florida Building Code by entering a declaratory statement.

2. Chapter 2, Florida Building Code, Building Volume (2007), defines “permit” as “[a]n official document or certificate issued by the authority having jurisdiction which authorizes performance of a specified activity.

3. Section 105.3, Florida Building Code, Building Volume (2007), states:

To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the building department for that purpose. Permit application forms shall be in the format prescribed by a local

administrative board, if applicable, and must comply with the requirements of Section 713.135(5) and (6), Florida Statutes.

Each application shall be inscribed with the date of application, and the code in effect as of that date. For a building permit for which an application is submitted prior to the effective date of the Florida Building Code, the state minimum building code in effect in the permitting jurisdiction on the date of the application governs the permitted work for the life of the permit and any extension granted to the permit.

4. Section 105.4.1, Florida Building Code, Building Volume (2007), provides that:

A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter or set aside any of the provisions of the technical codes, nor shall issuance of a permit prevent the building official from thereafter requiring a correction of errors in plans, construction or violations of this code. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six months after the time the work is commenced.

5. Rule 9B-1.009(5), Florida Administrative Code, provides that:

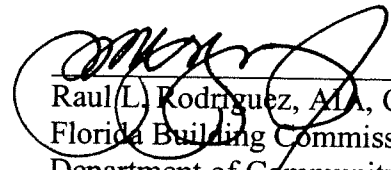
Upon revision of the building codes adopted herein, plan approvals shall expire upon the effective date of the revisions unless the manufacturer files with the department a sworn statement by a Third Party Agency that the plans have been reviewed and that they are in compliance with the revisions to the adopted codes.

6. The Commission concludes that, consistent with the intent of the above-cited provisions of the Code, manufacturers should be permitted to complete all buildings for which a clear, signed contract is in place providing specific data mirroring that required by an application for permit, specifically, without limitation, date of execution, building owner or dealer, and anticipated date of completion provided, however, that construction

activity commence within 6 months of the contract's execution. The contract is subject to verification by the Department of Community Affairs.

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 6 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 8th day of Jan, 2009.



PAULA P. FORD
Commission Clerk



Via U.S. Mail

Tom Hardiman
Modular Building Institute
944 Glenwood Station Lane
Suite 204
Charlottesville, Virginia 22901

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