

## PETITION FOR DECLARATORY STATEMENT

**Date:** December 19, 2008

DBA08-DEC-359

**To:** Florida Building Commission  
Department of Community Affairs  
2555 Shumard Oak Blvd.  
Tallahassee, FL 32399-2100

**Via Certified U.S Mail**  
#7007 2560 0002 2051 8944

**Reference:** FBC 12/8/2008 Decision / Complaint filed against Alternative Construction Company FL #5343

**Applicable Statutes:** F.S. 120.565 and FAC 28-105.002

**Applicable Rule:** 9B-72.160-5 F.A.C.

**Petitioner:** Michael J. Wolfe, VP  
Advanced Shelter Solutions, Inc.  
8631 Little Rd., Suite 112  
New Port Richey, FL 34654

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

  
Miriam Snipes  
Deputy Agency Clerk

12/19/08  
Date

### Statutory Authority

Under Rule 9B-72, the FBC is the authority having responsibility for statewide approval or disapproval of “products and systems which comprise a building’s envelope and structural frame”. Some examples of these products include component materials such as windows and doors or cladding materials such as building panels. FAC rule 9B-72.160(1)(a) states “Any product approval shall be revoked or suspended for any of the following reasons:” One of the reasons stated in rule 9B-72.160-5 is “Advertising and sales of products for uses not consistent with conditions or limitations of its approval.”

### Statement of Facts

During the Florida Building Commission meeting held at the Embassy Suites, Tampa, FL on Dec. 8, 2008 the FBC rendered a decision not to revoke the statewide approval in the case of a complaint filed against FL 5343. The filed complaint involves a building panel validated on Nov. 30, 2005 for statewide use as a cladding material only by an approved evaluation entity, TLC – Engineering for Architecture. The commission staff agreed that the product was being advertised and sold for structural applications not consistent with the limitations of use stated in the TLC validation report posted on the Building Code Information System. However, the commission ruled that this violation was not sufficient grounds for revoking or suspending the products statewide approval. Specifically, the commission found that when a building panel is used as a structural member to construct a building’s Main Wind Force Resisting System

(MWFRS), the local jurisdiction has the authority to approve or disapprove the product. Since this finding may be inconsistent with rule 9B-72.160-5, a declaratory statement is needed.

**Specific Request**

Pursuant to section 120.565, Florida Statutes, and Rule 28-105.002, Florida Administrative Code, I hereby request that a declaratory statement be issued by the FBC confirming its decision that, when a product approved for statewide use by the FBC is advertised or sold for an application that is not consistent with the conditions or limitations of its approval, the local jurisdiction is the authority having responsibility for the products approval or disapproval.

**Petitioner:**



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