

STATE OF FLORIDA  
BUILDING COMMISSION

In the Matter of

City of Jacksonville, Building  
Inspection Division, and St. Johns  
County Building Department.

Case #s: DCA09-DEC-053  
DCA09-DEC-062

Petitioners.

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**DECLARATORY STATEMENT**

The foregoing proceeding came before the Florida Building Commission (the Commission) by Petitions from James R. Shock, Manager of the Building Inspection Division of the Department of Planning and Development with the City of Jacksonville, and Dan Arlington, Plans Examiner with the St. Johns County Building Department, which were received on February 18, 2009, and February 27, 2009, respectively. Based on the statements in the petition, the material subsequently submitted and the subsequent request by the Petitioner, 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. Petitioners are charged with the duty to enforce the Florida Building Code in their respective jurisdiction.
3. Petitioners' respective building departments are reviewing plans for work with a value exceeding \$50,000 on residential and commercial buildings with an appraised value exceeding \$750,000 and that do not provide opening protection as required by the

Florida Building Code (2007) for new construction within the wind borne debris region of the State. Specifically, some of these buildings were designed and built as partially enclosed structures, an acceptable means of opening protection under the Florida Building Code until June 12, 2007.

4. The Petitioners request a clarification of the scope of Section 105.15, Florida Building Code, Building Volume, (2007), and specifically:

(a) Whether the requirements of that section apply to commercial and residential buildings; and

(b) Whether the requirements of that section apply to buildings that were constructed since the implementation of the Florida Building Code on March 1, 2002, and designed and constructed to withstand internal pressure in accordance with the Code in effect at the time of construction?

### **Conclusions of Law**

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of the Florida Building Code and Section 553.844(3), Florida Statutes, by entering a declaratory statement.

2. In 2007, the Florida Legislature mandated certain retrofit activity upon permitted work being performed on site-built, single family residential structures based upon a finding of “vulnerability of some construction undertaken prior to implementation of the Florida Building Code.” §553.844(1)(a), Fla. Stat. (2007). That statute specifically requires the Commission to adopt within the Code provisions requiring:

. . .that for site-built, single-family residential structures:  
. . . (c) Any activity requiring a building permit that is applied for on or after July 1, 2008, and for which the estimated cost is \$50,000 or more, must include provision

of opening protections as required within the Florida Building Code for new construction for a building that is located in the wind-borne debris region as defined in s. 1609.2 of the International Building Code (2006) and that has an insured value of \$750,000 or more, or, if the building is uninsured or for which documentation of insured value is not presented, has a just valuation for the structure for purposes of ad valorem taxation of \$750,000 or more.

§553.844(3), Fla. Stat. (2007)

3. Section 105.15, Florida Building Code, Building Volume (2007 as amended 3/01/09), reads:

When any activity requiring a building permit that is applied for on or after July 1, 2008, and for which the estimated cost is \$50,000 or more for a building that is located in the wind borne debris region as defined in the Florida Building Code and that has an insured value of \$750,000 or more, or, if the building is uninsured or for which documentation of insured value is not presented, has a just valuation for the structure for purposes of ad valorem taxation of \$750,000 or more.

Opening protections as required within the Florida Building Code, Building or Florida Building Code, Residential for new construction shall be provided.

4. The Commission amended the Code to include Section 105.15 by approval, as revised, of Modification # 3050. The modification described the fiscal impact of, and rationale for, the proposed change solely as to integrate “the provisions of Rule 9B-3.0475, Hurricane Mitigation Retrofits for Existing **Site-Built Single Family Residential** Structures into the 2007 Florida Building Code.” (Emphasis added).

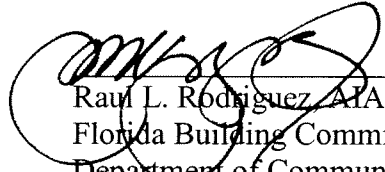
5. The Commission intended only to implement the requirements imposed by 553.844, Florida Statutes, and the rule adopted in the interim period of time between the enactment of the statute and the adoption of the 2007 edition of the Code, and that is the only intent supported by the supporting data as to fiscal impact and rationale that was

supplied to the Commission. Specifically, Section 105.15 was intended only to apply to site-built, single family, residential structures.

6. The statutory provision is explicitly based upon a finding of the vulnerability of homes that were constructed prior to implementation of the Florida Building Code. The Commission is compelled to construe the statute as a whole and not view particular provisions in isolation. Applying that principle, the Legislature did not intend to apply additional requirements for opening protection to homes that were built in accordance with the applicable Code requirements including designed for internal pressure as allowed by previous editions of the Code.

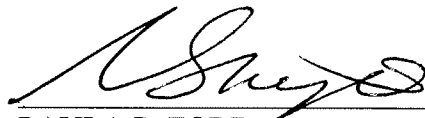
Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and with Fla. R. App. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, 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 9 of July, 2009, in Coral Gables,  
Miami-Dade County, State of Florida.

  
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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 13<sup>th</sup> day of July, 2009.

  
\_\_\_\_\_  
for PAULA P. FORD  
Commission Clerk

**Via U.S. Mail**

James R. Shock, PE, CBO  
Building Inspection Division Manager  
City of Jacksonville  
214 North Hogan Street  
Jacksonville, Florida 32202

Dan Arlington,  
Plans Examiner  
St. Johns County Building Department  
4040 Lewis Speedway  
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**Via Hand Delivery**

Mo Madani, C.B.O. Manager  
Codes and Standards Section  
Department of Community Affairs  
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