

Paula Ford, Clerk of the Commission  
Sadowski Building  
2555 Shumard Oak Boulevard  
Tallahassee, FL 32399-2100

DCA09-DEC-129

FAX to: Paula P. Ford, Clerk of the Commission - 850-922-2679  
—(Hard copy to follow)  
Mo Madani CBO, Technical Manager-850-414-8436

April 27, 2009

Petition for Declaratory Statement before The Florida Building Commission.

Petitioner: Bermuda Roof Co., Inc  
1499 W. Palmetto Park Rd., Suite 169  
Boca Raton, FL. 33486  
Telephone: 561-338-9245  
FAX 561-750-5532  
E-Mail [bermudarf@bellsouth.net](mailto:bermudarf@bellsouth.net)

Statutory provisions and agency orders on which the Declaratory Statement is sought:

- a.) Section 1512 – HVHZ; 1512.2.2 “Systems outside those currently recognized may be approved based upon performance testing”.
  - b.) Chapter 563; 553.842 Florida Statutes – “Product Evaluation and approval”.
  - c.) Memorandum, Florida Building Commission, Raul L Rodriguez, AIA, Chairman – December 6, 2006, “Demonstration of Product Compliance for the HVHZ and others areas accepting NOA’s.” \*
  - d.) E-Mail from Rick Dixon, DCA, State of Florida, 5/3/05 “Summary of FRSA/TRI recommendations on roof tiles for review.” \*
- \*-copies attached

Issue:

Company’s product, a premixed lightweight cementitious mortar-type adhesive, is approved for use with both field tile and hip and ridge tile by the Florida Building Code under approval Number FL7233, based on appropriate SSTD 11-99 testing and Miami-Dade County, Florida, Building Code Compliance Office NOA 06-0329.04 (non-HVHZ). Premixed lightweight mortar-type adhesive is approved for all tile profiles, except hip and ridge tile under approval FL 520 based on a series of tests per Miami-Dade TAS 101 and TAS 123 and has NOA 06-0329.05 (HVHZ).

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

  
Miriam Snipes  
Deputy Agency Clerk

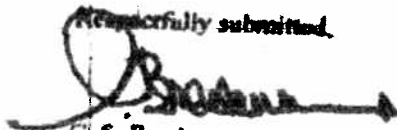
4/28/09  
Date

Despite having the FBC approvals, roofers are unable to use premixed lightweight mortar-type adhesive for installing hip and ridge tile in the HVHZ since it is not included in their RAS's. The hip and ridge Sections of these RAS's (118, 119, 120) are entirely prescriptive and although the HVHZ has a provision (1512.2.2) for approvals based on performance testing, they will not approve any hip and ridge systems that are not already in the RAS's because they have no approved test methods - and will not accept SSTD 11-99 tests as used by the FBC. It is a classic catch-22 arrangement that is in conflict with their own 1512.2.2; with FBC requirements; as well as the DCA/FBC ruling regarding demonstration of Product Compliance for the HVHZ.

Further exacerbating the situation is the fact the premixed lightweight mortar adhesive when used in hip and ridge systems provides the highest tested hip and ridge system of all such systems tested under SSTD 11-99. It is also one of the most economical systems, using only one product. It does not require any nail or screw holes through the waterproofing membranes. It is the only system that provides excellent support to the tile for walkability (i.e. -it provides 1,154 psi in one day compressive strength); and is easy to apply requiring no special labor or equipment.

For quite some time now homebuilders; homebuyers; and roofers in the HVHZ have been denied use of the most hurricane resistant hip and ridge system as well as one of the most economical systems due to this unusual code problem.

Respectfully submitted,



C. S. Broslauer  
President  
Bermuda Roof Co., Inc.

Date 4/27/09



STATE OF FLORIDA  
**DEPARTMENT OF COMMUNITY AFFAIRS**  
*"Dedicated to making Florida a better place to call home"*

JEB BUSH  
 Governor

THADDEUS L. CORREIA, AIA  
 Secretary

**MEMORANDUM**

Florida Building Commission  
 Raul L. Rodriguez, AIA, Chairman

Date: December 6, 2006

Re: Demonstration of Product Compliance for the High Velocity Hurricane Zone and Other Areas Accepting "NOA's"

Florida Statutes, section 553.842, govern local and state approval of building products directly related to the structural wind resistance of buildings. The law establishes specific methods for manufacturers to demonstrate compliance with the Florida Building Code but gives the manufacturer the option of obtaining either local or state approval. State approved products must be accepted by local jurisdictions within the limitations of use established by the state approval without requirement for further testing, evaluation or submission of evidence. (Florida Statute, section 553.842(4) Products or methods or systems of construction requiring approval under a 553.77 must be approved by one of the methods established in subsection (5) before their use in construction in this state. Products may be approved by the commission for statewide use. Notwithstanding a local government's authority to amend the Florida Building Code as provided in this act, statewide approval shall preclude local jurisdictions from requiring further testing, evaluation, or submission of other evidence as a condition of using the product so long as the product is being used consistent with the conditions of its approval.) When a product is state approved the local jurisdiction's authority extends only to determining the product is being used within the conditions established by the approval.

State approval of products for use in the High Velocity Hurricane Zone (HVHZ) is commonly but not always based on a Miami-Dade Notice of Acceptance" (NOA). The law guarantees manufacturers other means of demonstrating compliance with HVHZ requirements so long as their products are tested or evaluated using the standards that apply in the HVHZ. The Miami-Dade Code Compliance Office reviews applications for state approval of HVHZ products and advise the Florida Building Commission on their compliance with HVHZ standards. Compliance can be determined by accessing the state approval online using the state approval number then checking the standards products were tested to and the "limitations of use" documentation.

Approval by the State or Miami-Dade County allows acceptance of a product for use within the HVHZ. However, the building permitting authority must determine whether products comply with the requirements of the Code specific to the building they are used in. The State or Miami-Dade approvals provide the information required for this determination. Further testing or engineering evaluation cannot be required unless the permit applicant wishes to demonstrate the product can be used outside of the approved limitations of use.

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OFFICIAL STATE CONCERN FIELD OFFICE COMMUNITY PLANNING WILDFIRE MANAGEMENT HOUSING & COMMUNITY DEVELOPMENT

-----Original Message-----

From: Rick Dixon@dca.state.fl.us [mailto:Rick.Dixon@dca.state.fl.us]  
Sent: Tuesday, May 03, 2009 9:35 AM  
To: bob@polyfoam.cc; Steve Mummell  
Subject: Summary of FRSA/TRI recommendations on roof tiles for review

Steve and Bob

I reviewed the Supplement to the Tile Installation manual and summarized the recommendations as follows.

Please review and advise of any changes you think need to be made. I sent a draft of recommendations from all reports including these to the committee with note that I would send the final document by tomorrow. Please let me know if changes are needed by Tuesday close of business.

Rick

**FRSA/TRI Clay and Concrete Roof Tile Installation Supplement for Hip and Ridge Tile**

- ⓐ Require wood, metal or other structural support "ridge board" for tile attachment methods 1, 2 and 4A
- ⓐ Require FBC approved pre-bagged mortar to attach hip and ridge tiles attachment methods 3 and 4B (pre-bagged mortar requirement applies to systems where mortar is the attachment component not systems utilizing ridge board and mechanical or adhesive-set)
- ⓐ Require testing of ridge attachment systems according to SSTD 11 to establish wind up-lift resistance
- ⓐ Utilize an additional tile factor of 2-1 above that specified in SSTD 11 or TAS 101 to determine the "allowable overturning moment" or "attachment resistance expressed as a moment (Mf)"
- ⓐ Prohibit component substitution without proper laboratory testing and FBC Product Approval
- ⓐ Allow hip and ridge attachment systems with demonstrated performance equal or superior to that required by the identified systems

Please note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may be subject to public disclosure.