

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

COLE & RUSSELL
ARCHITECTS, INC.,

Case #: DCA08-DEC-147

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from John Berry, AIA, of Cole & Russell Architects, Inc., which was received on May 27, 2008, and subsequently amended on May 28, 2008. 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. The Petitioner designs buildings subject to the provisions of Chapter 553, Florida Statutes, and rules adopted pursuant thereto.
3. The Petitioner is designing a four-story, 183 unit senior housing apartment project known as the Sweetwater Senior Housing Project. The total facility area, including all floors, is 208,000 square feet. The facility is comprised of three distinct areas separated by fire walls with structural integrity referred to in the Petition as the north building, the south building and the central building. Fossil fueled appliances are located only in the central and north buildings.

4. The Petitioner inquires whether Rule 9B-3.0472, Florida Administrative Code, requires carbon monoxide detectors throughout the entire project or just within the central and north buildings as identified within the Petition?

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of the Florida Building Code and Rule 9B-3.0472, Florida Administrative Code, by entering a declaratory statement.

2. Rule 9B-3.0472, Florida Administrative Code, states:

Every building for which a permit for new construction is issued on or after 7/1/08 and having a fossil-fuel-burning heater or appliance, a fireplace, or an attached garage shall have an operational carbon monoxide alarm installed within 10 feet of each room used for sleeping purposes.


3. The foregoing rule does not define the word "building," but its common usage in the field of codes and standards is reflected by Section 705.1, Florida Building Code, Building Volume (2004 as amended 7/-6), which states:

Each portion of a building separated by one or more fire walls that comply with the provisions of this section shall be considered a separate building. For the purposes of determining height and area in accordance with Table 503, fire walls dividing buildings into separate buildings shall provide a 4-hour fire-resistance rating. The extent and location of such fire walls shall provide a complete separation. Where a fire wall also separates groups that are required to be separated by a fire barrier wall, the most restrictive requirements of each separation shall apply. Fire walls located on lot lines shall also comply with Section 503.2. Such fire walls (party walls) shall provide a 4-hour fire-resistance rating and shall be constructed without openings.

4. In accordance with the foregoing, Rule 9B-3.0472, Florida Administrative Code, only requires carbon monoxide detectors within the areas identified by the Petitioner as the north building and the central building.


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 21 of October, 2008, in Coral Gables, Miami-Dade County, State of Florida.


Raul L. Rodriguez, ADA, 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 23 day of oct, 2008.



PAULA P. FORD
Commission Clerk

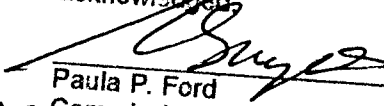
Via U.S. Mail

John Berry, AIA
Cole & Russell Architects, Inc.
537 East Pete Rose Way
Cincinnati, Ohio 45202

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

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



Paula P. Ford
Commission Clerk

10/23/08
Date