

**STATE OF FLORIDA
BUILDING COMMISSION**

In the Matter of

AL ROETTGER OF BROWARD
HURRICANE WROL-UP,

Case #: DCA04-DEC-051

Petitioner.

_____ /

DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the “Commission”) by a petition from AL ROETTGER OF BROWARD HURRICANE WROL-UP, (the “Petitioner”), which was received on March 9, 2004. Based upon the statements in the Petitions and the materials subsequently submitted, it is hereby ORDERED:

Findings of Fact

1. The petition is filed pursuant to Section 120.565, Florida Statutes, and must conform to the requirements of Rule 28-105.002, *Florida Administrative Code*.
2. The Petitioner is requesting clarification regarding the applicability of a previously obtained State Approval for roll formed, storm panels, and other hurricane shutter protection systems.
3. The Petitioner requests an interpretation of whether they will be required to submit signed and sealed drawings each time they wish to submit for a permit, even though they have obtained State Approval of their product. Petitioner states that they wish to have a declaratory statement which contains the same language as DCA03-DEC-296.

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. The Petitioner has previously received two product approvals for certain roll formed, storm panels, and other hurricane shutter protection systems through the Florida Building Commission (#358 which used an Evaluation Report from a Product Evaluation Entity and #310 which used a Certification Mark or Listing).

3. Section 553.842(3), Fla. Stat., (2003) reads as follows:

Products or methods or systems of construction required to be approved and certified by an approved product evaluation entity as complying with the standards specified by the code shall be permitted to be used statewide, without further evaluation or approval.

4. Section 553.842(4), Fla. Stat., (2003) reads in part:

Products may be approved either by the commission for statewide use, or by a local building department for use in that department's jurisdiction only. 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.

5. The Petitioner's question is:

Whether they will be required to submit signed and sealed drawings each time they wish to submit for a permit, even though they have obtained State Approval of their product. The Petitioner states that they wish to have a declaratory statement which contains the same language as DCA03-DEC-296.

6. Therefore, the Petitioner's question is answered as follows:

Local jurisdiction is only authorized to obtain proof of state approval for products that have obtained statewide approval and which are being used in a manner that

is consistent with the limitations of use and installation instructions identified by the state approval. The Petitioner is not required to submit signed and sealed drawings of such products.

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), Fla. Stat. (2003), and with Fla. R. App. P. 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, Florida 32399-2100, and with the appropriate District Court of Appeal not later than thirty (30) 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), Fla. Stat. (2003).

DONE AND ORDERED this _____ of July, 2004, 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 Boulevard
Tallahassee, Florida 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 _____ day of July, 2004.

PAULA P. FORD
Commission Clerk

Via U.S. Mail:

Al Roetiger
General Manager
All Broward Hurricane Wrol-Up
450 West McNab Road
Ft. Lauderdale, Florida 33309

Via Hand Delivery:

Mo Madani, CBO
Planning Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100