

TO: BOAF Formal Interpretation Committee

FROM: Joseph D. Belcher on Behalf of the Aluminum Association of Florida

RE: Petition for Formal Interpretation No. 34

Petitioner, the Aluminum Association of Florida (AAF), contends the interpretations in this case are incorrect. The interpretation infers that where the high-velocity hurricane zone (HVHZ) provisions are silent on the use of a material or method of construction, the material or method of construction is prohibited or banned in the HVHZ . In fact we believe such an interpretation constitutes discrimination against a material or method of construction. There is nothing in the Florida Building Code, Building (FBCB) or the Florida Building Code, Residential (FBCR) stating non-high-velocity hurricane zone code provisions shall not or may not be applied in the high-velocity hurricane zone.

Where an HVHZ section does not address a material or method of construction, the building official is justified in accepting provision of a non-HVHZ section addressing the material or method of construction. The existence of a section addressing the material or construction method should serve as justification for accepting the non-HVHZ provisions, rather than serving as the basis for prohibiting the use of the material or construction method. Such a policy is tantamount to saying no new or innovative products, materials, or methods of construction may be used in the HVHZ until they are contained in the HVHZ provisions of the code. This is especially true in the case at hand, removable vinyl and acrylic panels.

The language contained in the FBC addressing removable vinyl and acrylic panels is language taken from the former South Florida Building Code. The language was contained in both the Dade and Broward County Editions of the South Florida Building Code¹. In fact, the language was the result of industry working with the drafters of the South Florida Building Code. The language currently found in the Florida Building Code HVHZ sections is a combination of the two editions of the South Florida Building Code developed jointly by the two counties. The FBC provisions requiring decals stating the panels are to be removed were taken from a Miami-Dade County Product Approval Notice of Acceptance (NOA). The NOA was accepted in both counties as well.

The provisions have not been in the FBC HVHZ section since the original implementation of the FBC on March 1, 2002. However, screen enclosures using removable vinyl and acrylic panels were acceptable throughout Broward County until August of 2007 when permit applications were rejected in the City of Tamarac. The rejection was based on the absence of the provisions in the HVHZ sections of the code addressing vinyl and acrylic panels. The affected party appealed to the Broward County Board of Rules and Appeals (BORA) and the local interpretation was upheld. The BORA decision has resulted in what amounts to a countywide ban on a well established and recognized method of construction. Research and discussion with the Miami-Dade Building Code Compliance Office has revealed the language was unintentionally left out of the Florida Building Code HVHZ provisions. A glitch amendment will be submitted to reinstate the language. The jurisdictions involved are aware of this and continue to maintain if it is not in the HVHZ section, you cannot build it in the HVHZ. This is clearly not the intent of the code.

¹FBCB §2002.3.3; FBCR §R301.2.1.1.1; SFBC, Dade, 6th Edition, §4403; SFBC Broward Edition, 1999, §4403

The code clearly intends for building officials to evaluate materials and methods of construction not specifically addressed by the code. The code does not intend to prevent the installation of or to prohibit any material, design, or method of construction not specifically prescribed by the code. The code contains language specifically addressing the issue:

“104.11 Alternative materials, design and methods of construction and equipment.

The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. When alternate life safety systems are designed, the SFPE Engineering Guide to Performance-Based Fire Protection Analysis and Design of Buildings, or other methods approved by the building official may be used. The building official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternative.” (Florida Building Code, Building, 2004, §104.11.) **(Emphasis provided.)**

Regarding the application of the high-velocity hurricane zone sections, the HVHZ provisions are invoked in Exceptions at the beginning of those chapters containing HVHZ provisions. While the Exceptions state buildings in the HVHZ must comply with specific sections within the chapter, there is no statement that other sections of the code may not be applied where an HVHZ section is silent on a material or method of construction. The Exception in Chapter 20 states buildings in the HVHZ shall comply with Section 2003. However, the referenced section does not address the construction of screen enclosures with removable vinyl and acrylic panels; nor, is the construction method addressed at Section 1622.1, Screen Enclosures. The failure to address a material or construction method should not and does not mean the use of the material or construction method is prohibited.

The Aluminum Association of Florida respectfully requests the BOAF Formal Interpretation Committee find that:

1. The absence of provisions addressing a material or method of construction in the HVHZ sections of the Florida Building Code does not mean that material or method of construction cannot be used or built in the HVHZ.
2. The Committee state that non-HVHZ provisions addressing materials or methods of construction not addressed by the HVHZ provisions of the code may be used in the HVHZ when approved by the building official.

Respectfully submitted,

Joseph D. Belcher for the Aluminum Association of Florida