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January 19, 2024

VIA FEDERAL EXPRESS & EMAIL: MO.MADANI@MYFLORIDALICENSE.COM

Mo Madani,
Technical Director
Building Codes & Standards Office
2601 Blair Stone Road
Tallahassee, FL 32399

Re: **Supplemental Response to Complaint Regarding Florida Product Approval No. 22267 (ES-SGD2020) and Florida Product Approval Number 17897.5 (ES-8000T)**

Dear Mr. Madani,

As you know, our firm represents E.S. Windows, LLC (“**ES Windows**”) in connection with the above referenced complaint filed on November 8, 2023 (“**Complaint**”), by PGT Innovations, Incorporated (“**PGT**”). PGT’s Complaint questions whether ES Windows should have been issued Florida Product Approval Nos. 17897.5 and 22267 (together, the “**FPA**s”). PGT also brazenly suggests that ES Windows may have misrepresented important technical data pertaining to its products in order to obtain the FPAs. These and other allegations by PGT are demonstrably false, as explained in ES Windows’s recent January 17, 2024, response. We write now to supplement ES Windows’ response in two ways.

First, attached please find a recent decision by Miami-Dade County denying another complaint filed by PGT (“**MDC Complaint**”) that is very similar to the Complaint pending before the Florida Building Commission (“**FBC**”). PGT’s MDC Complaint challenges ES Windows’ Notice of Acceptance 23-0714.13. The product at issue in the MDC Complaint is different from the products at issue here, but PGT’s allegations are nearly identical. As you can see, the County wholly agreed with ES Windows’ position and summarily dismissed the MDC Complaint. We believe the FBC should come to the same conclusion for the same reasons.

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Mo Madani,
January 19, 2024
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Second, it has come to our attention that Rodney Hershberger, the Chairman of the Board of PGT, is a member of the FBC Product Approval Committee (“PAC”) that will be reviewing the Complaint at the upcoming February 5, 2024, meeting. In fact, it appears that Mr. Hershberger is the chairman of that Committee. Obviously, that creates a huge conflict of interest and, quite frankly, we are surprised by that fact. It is nevertheless a fact that we must deal with.

Of course, we trust that FBC will ensure that Mr. Hershberger will have absolutely no involvement in, influence over, or interaction with the PAC’s review of the PGT Complaint and any subsequent decision. And, we would expect Mr. Hershberger, and any other members of the PAC that has direct or indirect relationships with him or PGT, to abstain from any consideration of PGT’s Complaint. Such precautionary measures are necessary to ensure fair resolution of this otherwise frivolous matter.

ES Windows has argued, and will continue to argue, that PGT’s recent complaints to the FBC and to Miami-Dade County are unauthorized, inappropriate, and simply wrong. Said otherwise, PGT is engaging in an intentional scheme of unfair and improper competition. There are absolutely no issues with the ES Windows products at issue, nor has anyone ever successfully demonstrated otherwise. In fact, I have represented ES Windows and its affiliated and parent companies for over 30 years, defended them in dozens of defect cases, and they have never been found liable for any design or construction-related issue. As indicated in ES Windows’ initial response, we will deal with PGT and its unfair competition and business practices in other forums.

We trust the FBC, through the PAC, will agree with Miami-Dade County and summarily dismiss PGT’s Complaint at the upcoming February 5, 2024, hearing. As always, we appreciate your time and attention to this matter. We remain available to address any questions or concerns you may have. Otherwise, we look forward to the upcoming hearing.

Very truly yours,

/s/ Phillip M. Hudson

Phillip M. Hudson III, P.A.

PMH



MIAMI-DADE COUNTY
DEPARTMENT OF REGULATORY AND ECONOMIC RESOURCES(RER)
BOARD AND CODE ADMINISTRATION DIVISION
PRODUCT CONTROL SECTION

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miamidade.gov/building

January 18, 2024

Daniel J. DeLeo, Esq.
PGTI (1070 Technology Drive)
North Venice, FL 34275

RE: Nonconformity of NOA No. 23-0714.13 (Series EL400 Aluminum Sliding Glass Door – LMI)
Location: N/A
Complaint No. 23122101

Dear Mr. DeLeo:

This letter is regarding your complaint dated December 19, 2023, filed against E.S. Windows, LLC, the sliding glass door manufacturer of the above referenced Notice of Acceptance (NOA).

Upon receipt of your complaint, we initiated an investigation which included notification to the manufacturer. Pursuant to Miami-Dade County Quality Assurance Guidelines, the manufacturer provided a response to each of the items raised in your complaint. See enclosed response. This, along with support documents submitted to obtain the subject NOA, as listed in the evidence page of the NOA, were thoroughly reviewed by our office and we have determined that the E.S. Windows, LLC (**Series EL400 Aluminum Sliding Glass Door – LMI**) meets all the requirements per the High Velocity Hurricane Zone (HVHZ) tests protocols TAS201-94, TAS202-94, and TAS203-94. Further the referenced NOA was found to comply with the governing rules and regulations of the Florida Building Code and meets the uniform review process set for all other NOA applicants, including applicable checklists for Sliding Glass Doors by RER, Product Control Section.

Based on the above findings, we conclude that there is no justification to warrant further action against E.S. Window, LLC, Therefore, this letter is to inform you that we will be closing this complaint. Should you have any questions about this matter, please do not hesitate to contact us.

Sincerely,

Americo Segura, M, S., CGC
Quality Assurance Unit Supervisor
Product Control Section

Encs.

Helmy Makar, P.E., Product Control Section Supervisor
Ishaq I. Chanda, P.E., Product Control Unit Supervisor
Jaime D. Gascon, P.E., Director, Board and Code Administrative Division

