

**PRODUCT APPROVAL PROGRAM OVERSIGHT COMMITTEE  
TELECONFERENCE MEETING FROM TALLAHASSEE  
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**AUGUST 8, 2023  
10:00 A.M.**

**Minutes**

**PRODUCT APPROVAL PROGRAM OVERSIGHT COMMITTEE  
PRESENT:**

Rod Hershberger, Chairman  
Brian Swope

Tim Tolbert  
Stephen Wilcox

**PRODUCT APPROVAL PROGRAM OVERSIGHT COMMITTEE  
NOT PRESENT:**

David Compton

**STAFF PRESENT:**

Melissa Compos  
Thomas Campbell  
Sabrina Evans  
Marlita Peters

Jim Hammers  
Mo Madani  
Justin Vogel  
Robert Benbow

**MEETING FACILITATION:**

The meeting was facilitated by Jeff Blair from Facilitated Solutions, LLC. Consultation, Process Design & Facilitation. Information at: [facilitatedsolutions.org](https://www.facilitatedsolutions.org)

**Time: 10:00 a.m.**

Mr. Blair welcomed everyone to the teleconference meeting of the Product Approval Program Oversight Committee.

**Roll Call:**

Mr. Blair performed roll call for the Product Approval Program Oversight Committee. A quorum was determined with 3 members present at the time of roll call.

**Agenda Approval:**

Commissioner Wilcox entered a motion to approve the agenda as posted for today's meeting. Commissioner Hershberger seconded the motion. The motion was passed unanimously with a vote of 3 to 0.

**Approval of the minutes from June 20, 2023:**

Commissioner Wilcox entered a motion to approve the minutes as posted from the June 20, 2023 meeting. Commissioner Hershberger seconded the motion. The motion was passed unanimously with a vote of 3 to 0.

**Product Approval Program Issues:**

**A. Report on conditional approvals:**

Mr. Blair reported all of the relevant conditions were met for each of the conditional approvals and stated no action is needed.

**B. Product Approval and Entities Statistics Report:**

Ms. Campos provided the statistical reports of products and entities as approved for the 2020 and 2023 Florida Building Code.

Commissioner Swope joined the meeting, making the quorum 4 members present.

**C. Complaint Filed by Yiping Wang:**

Commissioner Hershberger stated that he had a conflict of interest in this matter and excused himself from the discussion and decision making on the complaint filed.

Mr. Blair provided details on the complaint process.

**Staff:**

Mr. Vogel informed the committee that Commissioner Hershberger provided a memorandum of voting conflict for state officers.

Mr. Vogel provided the legal framework on the complaint filed by Ms. Yiping Wang regarding FL 15709.

**Complainant:**

Ms. Yiping Wang, President of MCY Engineering Inc., provided details on her complaint filed regarding FL 15709.

**Respondent:**

Mr. Dan DeLeo, Attorney with Shumaker, provided a response to the complaint filed against FL 15709.

**Staff:**

Mr. Madani provided details on the staff's recommendation regarding the complaint filed against FL 15709.

**Clarifying Question:**

Ms. Yiping Wang asked clarifying questions.

Mr. Madani provided answers to Ms. Wang's questions.

**Staff:**

Mr. Blair asked Mr. Vogel a question.

Mr. Vogel provided an answer to Mr. Blair's question.

**POC members:**

Commissioner Swope asked a question.

Mr. Blair provided an answer to Commissioner Swope's question.

**Motion:**

Commissioner Swope entered a motion to recommend that the Florida Building Commission not initiate an investigation of FL #15709. Commissioner Tolbert seconded the motion. The motion passed unanimously with a vote of 4 to 0, with Commissioner Hershberger abstaining.

**DBPR Report:**

**A. Product and Entity Applications Consent Agenda:**

Mr. Blair stated there were 14 product approval entities on the consent agenda for approval.

**Motion:**

Commissioner Tolbert entered a motion to approve the 14 product approval entities. Commissioner Wilcox seconded the motion. The motion passed unanimously with a vote of 4 to 0.

Mr. Blair stated there are 110 product approval applications on the consent agenda for approval.

**Motion:**

Commissioner Tolbert entered a motion to approve the 110 product approval applications on the consent agenda. Commissioner Swope seconded the motion. The motion passed unanimously with a vote of 4 to 0.

**B. Product Approval Application with Comments:**

Mr. Blair stated there were 2 applications on the consent agenda with comments and recommendations for approval.

**Motion:**

Commissioner Wilcox entered a motion to approve FL 42117 and FL 42119 on the consent agenda. Commissioner Swope seconded the motion. The motion passed unanimously with a vote of 4 to 0.

Mr. Blair stated there were 2 applications on the consent agenda with comments for conditional approval.

**Motion:**

Commissioner Tolbert entered a motion for conditional approval of FL 42095 and FL 42122 on the consent agenda. Commissioner Wilcox seconded the motion. The motion passed unanimously with a vote of 4 to 0.

**C. DBPR Product Approval Applications Consent Agenda:**

Mr. Blair stated there were 82 DBPR product approval applications and 0 with comments, and that there was no action needed.

**Other POC Business:**

None

**Public Comment:**

None

**POC Member and Staff Comment:**

None

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**Adjourn:**

There being no further business before the POC, Commissioner Hershberger adjourned the meeting at 10:59 a.m.

# FORM 8A MEMORANDUM OF VOTING CONFLICT FOR STATE OFFICERS

|  |  |
|--|--|
| LAST NAME—FIRST NAME—MIDDLE NAME<br>Hershberger Rodney | NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE<br>Florida Building Commission, Product Approval POC |
| MAILING ADDRESS<br>1070 Technology Drive               | NAME OF STATE AGENCY<br>Dep't of Business & Professional Regulation  |
| CITY<br>North Venice, FL 34275                         | COUNTY<br>Sarasota   |
| DATE ON WHICH VOTE OCCURRED<br>August 8, 2023          | MY POSITION IS: <input type="checkbox"/> ELECTIVE<br><input checked="" type="checkbox"/> APPOINTIVE              |

## WHO MUST FILE FORM 8A

This form is for use by any person serving at the State level of government on an appointed or elected board, council, commission, authority, committee, or as a member of the Legislature. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

### ELECTED OFFICERS:

As a person holding elective state office, you may not vote on a matter that you know would inure to your special private gain or loss. However, you may vote on other matters, including measures that would inure to the special private gain or loss of a principal by whom you are retained (including the parent or subsidiary or sibling organization of a principal by which you are retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. If you vote on such a measure or if you abstain from voting on a measure that would affect you, you must make every reasonable effort to disclose the nature of your interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes. If it is not possible for you to file a memorandum before the vote, the memorandum must be filed with the person responsible for recording the minutes of the meeting no later than 15 days after the vote.

For purposes of this law, a "relative" includes only your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with you as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

A member of the Legislature may satisfy the disclosure requirements of this section by filing a disclosure form created pursuant to the rules of the member's respective house if the member discloses the information required by this subsection, or by use of Form 8A.

\* \* \* \* \*

### APPOINTED OFFICERS:

As a person holding appointive state office, you are subject to the abstention and disclosure requirements stated above for Elected Officers. You also must disclose the nature of the conflict before voting or before making any attempt to influence the decision by oral or written communication, whether made by you or at your direction.

For purposes of this law, a "relative" includes only your father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with you as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes.
- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

**IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION OR VOTE AT THE MEETING:**

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

## DISCLOSURE OF STATE OFFICER'S INTEREST

I, Rodney Hershberger, hereby disclose that on August 8, 20 23 :

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_ ;
- inured to the special gain or loss of my relative, My son Benji Hershberger is employed by PGT Innovations Inc ;
- inured to the special gain or loss of PGT Innovations, Inc, by whom I am retained; or
- inured to the special gain or loss of WinDoor Incorporated, which is the parent, subsidiary, or sibling organization of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

A complaint regarding Florida product approval FL 15709 has been received by the Florida Building Commission. This product is manufactured by WinDoor, Inc. The professional engineer who developed the evaluation report for the product, and who serves as the technical representative for it, is an employee of PGT Innovations.

I serve as the Chairman of the Board of Directors for PGT Innovations, which is the parent company of WinDoor, Inc.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

8/4/2023

Date Filed

Rodney Hershberger  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.