

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

"Dedicated to making Florida a better place to call home"

JEB BUSH
Governor

STEVEN M. SEIBERT
Secretary

**BOARD MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION
July 2, 2002**

PENDING APPROVAL

The meeting of the Florida Building Commission was called to order by Chairman Raul Rodriguez at 8:00a.m., on Tuesday, July 2, 2002, at the Rosen Plaza Hotel, Orlando, Florida.

COMMISSIONERS PRESENT:

Raul Rodriguez, Chairman
Dan Shaw
Peggy Patterson
Hamid Bahadori
Michael Mc Combs
Craig Parrino
George Wiggins
John Calpini
Christ Sanidas
Karl Thorne
Nick D' Andrea
Richard Browdy
Stephen Corn
Dale Greiner
Paul Kidwell
Do Y. Kim

Ed Carson
Steven Bassett
Dr. Diana Richardson

COMMISSIONERS ABSENT:

Bob Leonard
Leonard Lipka

OTHERS PRESENT:

Rick Dixon, Executive Director
Ila Jones, Program Administrator
Al Bragg, Legal Advisor
Jim Richmond, Legal Advisor
Jeff Blair, FCRC

2555 SHUMARD OAK BOULEVARD • TALLAHASSEE, FLORIDA 32399-2100
Phone: 850.488.8466/Suncom 278.8466 FAX: 850.921.0781/Suncom 291.0781
Internet address: <http://www.dca.state.fl.us>

FLORIDA KEYS
Area of Critical State Concern Field Office
2796 Overseas Highway, Suite 212
Marathon, Florida 33050-2227

WELCOME

Chairman Rodriguez called the meeting to order and stated the meeting's agenda would include review and action on declaratory statements, as well as discussion of the rule challenge on pool alarm requirements. He urged all speakers to sign up on the respective speaker's lists.

AGENDA REVIEW AND APPROVAL

Mr. Blair briefly conducted a review of the meeting agenda. He stated the Chairman would discuss a variety of issues with the Commission, accessibility waiver applications would be heard, POC reports would be heard, as well as TAC reports. He continued stating there would be a discussion on the BOAF Code interpretation process, then requests for declaratory statements, the second discussion regarding the relationship of the Florida Building Code and the International Code would be held, public comment would be heard, followed by a review of committee assignments. Mr. Blair then stated there would be a review of the work plan and the changes thereof.

Commissioner D'Andrea moved approval of the agenda. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND APPROVAL OF May 14, 2002 MEETING MINUTES

Chairman Rodriguez opened for corrections or additions to the minutes of the May 14, 2002 meeting. He stated an amendment to the minutes should reflect the appointment of Walter Smith to the Fire TAC rather than the Energy TAC.

Commissioner Greiner stated on page three, former Commissioner Kopczinski has moved to New Hampshire rather than Maine.

Chairman Rodriguez called for a motion to approve the minutes of the May 14, 2002 meeting as amended. Commissioner D'Andrea moved approval of the minutes as amended. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND UPDATE OF COMMISSION'S UPDATED WORKPLAN

Mr. Blair conducted a brief overview of the Commission's workplan. He referenced page three of the agenda packet which replaces the workplan included in each Commissioner's book.

Commissioner D'Andrea moved approval of the modified workplan. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman Rodriguez opened the Chair's discussion with TAC and POC appointments. He began with Special Occupancy stating Michael Cavender would be replacing Ted Baranowski. He stated Ed Carson would be replacing Dennis Braddy on the Code Administration TAC. Chairman Rodriguez continued stating Oriel Haage would be filling a vacancy on the Electrical TAC. He furthered Johnny Long would be serving on the Accessibility TAC; Ed Carson would be serving as Chair on the Product Approval/Prototype Building POC. Chairman Rodriguez stated there are positions on the Commission awaiting the Governor's appointment, i.e., Frank Quintana's vacancy and eventually Bob Leonard.

Chairman Rodriguez addressed the C.E.U. credits for Commissioners relative to CILB and BCIB rules. He then directed the Commission to Mr. Hickey for a brief presentation.

Mr. Hickey stated the C.E.U. credit information is available in the rules for the Building Officials Administrator's Board. He stated they receive seven hours for attending any of the TAC or Commission meetings. He continued stating there is usually a C.E.U. sign up sheet at every Commission meeting, then invited anyone with questions or concerns to contact him.

Chairman Rodriguez then briefly reviewed the upcoming August meeting agenda items. He stated the Commission would review and recommend proposed Code changes by TACs. He reminded the Commission as well as the public that the coming Code amendment process is intended for glitches to the current adopted Florida Building Code. He then stated the standard which would be abided: a) correction of errors, b) unintended consequences, c) adoption of current editions of reference standards, and d) updates of state agency rules.

Chairman Rodriguez then announced the Florida Building Commission and BOAF have joint projects underway. He stated Mr. Dixon and Mr. Madani met with BOAF regarding procedures for advisory opinions. He furthered the law requires the Commission to develop the procedures which will be accomplished jointly. He stated Mr. Spooner, president of BOAF, would be making a presentation later in the meeting.

Chairman Rodriguez stated there is a development of voluntary accreditation standards by building departments underway. He stated BOAF is creating a cost estimate for consulting services to support the project. He continued stating the consultant would be working with BOAF Professional Development Committee to develop proposed standards.

Chairman Rodriguez recognized former Commissioner Jim Mehlretter for his very dedicated work and his length of service on the Commission.

COMMITTEE REPORTS AND RECOMMENDATIONS

Fire TAC

Commissioner D'Andrea presented the report from the June 19, 2002 Fire TAC Committee. (See *Fire TAC Report and Recommendations, June 19, 2002 Attachment.*)

Commissioner Wiggins moved approval of the Fire TAC report. Commissioner Thorne seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Code Administration TAC

Commissioner Thorne presented the report of the Code Administration TAC Committee. (See *Code Administration TAC Report and Recommendations, July 1, 2002 Attachment.*)

Commissioner Browdy moved approval of the report of the Code Administration Committee. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mechanical TAC

Commissioner Patterson presented the Mechanical TAC Committee

report and recommendations. (See *Mechanical TAC Report and Recommendations, July 1, 2002 Attachment.*)

Commissioner D'Andrea moved approval Mechanical TAC report. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Structural TAC

Commissioner Parrino presented the report of the Structural TAC Committee. (See *Structural TAC Report and Recommendations Attachment.*)

Commissioner Wiggins moved approval of the report of the Structural TAC. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Accessibility TAC

Commissioner Richardson presented the Accessibility TAC Committee report and recommendations. (See *Accessibility TAC Report and Recommendations Attachment.*)

Commissioner Corn moved approval of the Accessibility TAC report. Commissioner Sanidas seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Energy TAC

Commissioner Bassett presented the report and recommendations of the Energy TAC Committee. (See *Energy TAC Report and Recommendations, July 1, 2002 Attachment.*)

Commissioner Wiggins moved approval of the Energy TAC report. Commissioner Calpini seconded the motion. Vote to approve the report was unanimous. Motion carried.

Education Program Oversight Committee (POC) and TAC

Commissioner Browdy presented the report and recommendations of the Education TAC Committee. (See *Education TAC and POC Report and Recommendations, July 1, 2002 Attachment.*)

Commissioner D'Andrea moved approval of the report of the Education TAC and the Education POC. Commissioner Greiner seconded motion. Vote to approve the motion was unanimous. Motion carried.

Product Approval / Prototype Building / Manufactured Buildings Programs Oversight Committee (POC)

Commissioner Carson presented the report and recommendations of the Product Approval / Prototype Building / Manufactured Buildings Programs Oversight Committee. (See *Product Approval / Prototype Buildings / Manufactured Buildings Oversight Committee Minutes, July 1, 2002* Attachment.)

Commissioner Greiner moved approval of the Window & Door Manufacturer's Association application for entity approval for Certification Agency and Validation Entity, contingent on receipt of ANSI accreditation and electronic submission of application data and payment within 45 days. Commissioner Corn seconded the motion.

Mr. Dixon offered clarification stating WDMA already appears on ANSI's list of accredited certification agencies. He explained there is no signature on the application at this time, and the website through which all entities must apply for approval became active online just before the applications on the table were submitted, not leaving ample time for them to be submitted electronically, as required by rule.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion was unanimous.

Commissioner Carson continued itemizing the applications for approval:

Miami-Dade County Building Code Compliance Office
Evaluation Entity, Validation Entity, and Accreditation Body.

Commissioner Bassett moved approval for the Miami-Dade County Building Code Compliance Office to be an evaluation entity, a validation entity, and an accreditation body. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

SBCCI
Evaluation Entity

Commissioner Bassett moved approval for SBCCI to be an evaluation entity. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

National Evaluation Services
Evaluation Entity, Validation Entity

Commissioner Bassett moved approval for NES to be an evaluation entity and a validation entity. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

ICBO Evaluation Services
Evaluation Entity, Certification Agency, Validation Entity

Commissioner D'Andrea moved approval for ICBO Evaluation Services to be an evaluation entity, a certification agency, and a validation entity. Commissioner Thorne seconded the motion. Vote to approve the motion was unanimous. Motion carried.

AAMA
Certification Agency, Validation Entity

Commissioner Bassett moved approval for AMI to be a certification agency and a validation entity. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Keystone Certification
Certification Agency, Validation Entity

Commissioner D'Andrea moved approval for Keystone Certification to be a certification agency and a validation entity. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett moved approval of report of the Product Approval / Prototype Building / Manufactured Buildings Programs Oversight Committee. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

CONSIDERATION OF ACCESSIBILITY WAIVER APPLICATIONS

Mr. Bragg addressed the Commission concerning Colony Theater Restoration and Stage House Improvements, the first waiver application for consideration by the Commission. He stated the Council recommended to deny the waiver application. He explained the facility is a Title 2 facility, owned by the City of Miami Beach and receives public funding. Mr. Bragg stated there is a general rule that Title 2 of the ADA requires the retrofitting of buildings in order to provide access to programs, services, and facilities made available by governmental entities.

Mr. Bragg continued stating the Colony Theater is on the National Registry of Historic Sites and appealed to the Commission to delay a denial of the waiver until it can be determined how the competing interests of Title 2 and the National Historic Preservation Act balance.

Chairman Rodriguez asked what Mr. Bragg's recommendation would be to the Commission in terms of how to handle the waiver application.

Mr. Bragg recommended the Commission defer the waiver application until the next meeting in August.

Commissioner Wiggins asked if it is an option to apply to the Department of State, Bureau of Historic Buildings for a waiver rather than coming to the Commission at this time.

Ms. Armstrong began discussion regarding the Accessibility Waiver Applications.

#5 - Pediatric Associates of Orlando

Ms. Armstrong stated the applicant withdrew his application to conduct further research.

#3 - McFarlain Cassedy Law Firm

Ms. Armstrong stated the Council recommended to grant the waiver application based on extreme hardship.

Commissioner D'Andrea moved the Council's recommendation to grant the waiver. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#4 - Super 8 Motel

Ms. Armstrong stated the Council recommended to grant based on undue hardship. She explained the applicant met the twenty percent disproportionality rule.

Commissioner Thorne moved approval of the Council's recommendation to grant the waiver. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#7 - General Hauling Services, Inc.

Ms. Armstrong stated the Council recommended to grant the waiver application. She stated vertical accessibility is not necessary to the second floor, as it is unoccupied space at this time. Ms. Armstrong explained if the applicant ever enters the second floor into use, the waiver would be null and void.

Commissioner D'Andrea moved approval of the Council's recommendation. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#8 - Wade Raulerson Pontiac GMC Trucks

Ms. Armstrong stated the Council recommended to grant the waiver based on vertical accessibility not being required on the second level. She continued stating the Council requested a letter from the applicant stating if the second level were eventually utilized, vertical accessibility would be provided.

Commissioner D'Andrea moved approval of the Council's recommendation to grant the waiver. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#9 - Marco Island Marriott Resort

Ms. Armstrong stated the Council recommended to grant the waiver. She continued stating the applicant met the twenty percent rule and was not required to provide vertical accessibility.

Commissioner D'Andrea moved approval of the Council's recommendation. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#1 - Colony Theater Restaurant and Stage House

Ms. Armstrong stated the Council deliberated for an hour in making the decision to deny the waiver. She stated the Council did identify the facility as a Title 2 facility receiving state and local funding. She continued explaining, however, the Council based their recommendation to deny due to the applicant did not qualify for extreme financial hardship, and the applicant was unable to provide proof of technical infeasibility. Ms. Armstrong acknowledged although the facility is on the National Registry for Historic Sites, there are interior renovations underway.

Mr. Mellick interjected he asked the applicant why they had not sought waiver through the Department of State for an historic waiver as provided in the Code. He stated the applicant did not satisfy an answer to the question.

Cary Segel, Architect representing the applicant, stated the project is historic. He stated he possessed documents which were not available at the time application was submitted. He explained he had obtained approval from Mr. Philip Wisely, state historic preservation officer, as well as from Philip Waison, City of Miami Beach building official, who agrees with the request which is currently before the Commission.

Mr. Segel stressed the importance of noting a couple of other details. He stated the application before the Commission was to address the paragraph in the new Florida Building Code requiring vertical accessibility to all levels of any building. He explained that all other issues had been addressed and relieved by other entities. Mr. Segel continued stating vertical accessibility could not be provided without destroying the historic fabric of the theater, or if it could be included in design, it would completely change the audience chamber of the theater. He stated the project is on a critical time table with the need for construction to begin by July 15, 2002, to avoid losing funding since the project is being funded by a variety of sources.

Chairman Rodriguez requested clarification regarding the current addition to the facility in terms of its effect on the historic status of the original facility.

Mr. Segel responded prior to the complete working drawing there was an 8 ½ month process with the City of Miami Beach Historic Approval Board, whose approval was required to allow the renovation while maintaining the historic integrity of the original theater. He stated the committee demanded and included as part of their approval, that all the existing building to remain, everything in front of the stage, needed to be

returned as close as possible to its original building design.

Commissioner Wiggins again asked why waiver was not sought through the Department of State.

Mr. Segel responded they were instructed by the City of Miami Beach that their particular waiver needed to come before the Florida Building Commission. He then stated approval for the remainder of the project was sought from Philip Wisely, which was granted.

Mr. Bragg stated the last time he reviewed the state of Florida Historic Preservation Act, he did not note any power granted to waive or relieve an owner specific architectural requirements.

Chairman Rodriguez continued stating there seems to be a time constraint on the project then asked Mr. Bragg if there was any resolve which had not yet been considered.

Mr. Bragg responded if the motion was based on the owner's inability to prove technical infeasibility, he would be willing to expedite his research into the issue and have a reliable answer in less than an hour. Open discussion then ensued regarding the historical structural issues and exploring options to resolve the accessibility issue for this historic facility.

Commissioner Patterson moved approval of the Council's recommendation to deny the waiver. Commissioner Kidwell seconded the motion.

Commissioner Richardson posed whether a waiver could be granted allowing the applicant adequate time to document infeasibility of providing additional accessible seating. She stated she was not convinced there were no other options in terms of providing vertical accessibility.

Commissioner Patterson asked if the waiver is denied, would the applicant then be able to return to the Historic Preservation committee to seek further options.

Chairman Rodriguez offered further clarification concerning the options being discussed. He stated if the waiver is denied, the applicant cannot move forward with any renovations resulting in a missed season as well as a loss of some of the funding. He continued stating it seems a

better solution would be possible in terms of accessible seating. Chairman Rodriguez continued stating a motion such as Commissioner Richardson's idea, approving the waiver contingent upon the applicant returning to the Commission with proof of what they have provided as being the only available option.

Commissioner Patterson withdrew her motion.

Commissioner Browdy expressed concern granting a waiver subject to future performance. He then moved granting a waiver subject to the applicant providing seven accessible seats with a site line no greater than thirty degrees in the center section of the theater. Commissioner Richardson seconded the motion.

Chairman Rodriguez then called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

#2 Crazy Conch Cafe

Ms. Armstrong stated this applicant has been before the Council three times and had been deferred at the last meeting. She stated the Council recommended to deny the waiver based on insufficient documentation for review.

Commissioner Shaw moved approval of the Council's recommendation to deny. Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#6 Davie Campus - Jewish Federation of Broward County

Ms. Armstrong stated the Council recommended to defer in order to give the applicant an opportunity to appear for further explanation.

Commissioner Shaw moved approval of the Council's recommendation to defer. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

COMMISSION / BOAF PROJECT TO DEVELOP NON-BINDING CODE INTERPRETATION PROCESS

Chairman Rodriguez directed the Commission to Ronnie Spooner, BOAF, for a brief presentation on the joint projects to develop non-binding Code interpretation process.

Mr. Spooner presented a report on the joint projects between FBC and BOAF. (See *Flow Chart Informal Non-Binding Interpretations Florida Building Code Attachment.*)

Commissioner Corn expressed appreciation to BOAF for their willingness to undertake the Code interpretation process. He then moved approval of the presentation and the procedure for obtaining informal Code interpretation. Commissioner Wiggins seconded the motion.

Commissioner D'Andrea interjected he would like to see the Building Fire TAC included in the interpretations. He asked if conflicts arise would the TAC then make the final determination.

Mr. Dixon confirmed that the TACs would make the final determination in the Code interpretation process.

Commissioner Parrino requested BOAF provide the Commission with the names and qualifications of those serving on the committees and should a committee undergo a change, the Commission be notified of that as well. He then entered his request as a friendly amendment to the motion on the floor. The maker of the motion accepted the friendly amendment.

Commissioner Wiggins reminded the Commission the opinions of BOAF are advisory, non-binding opinions intended to facilitate enforcement of the Code and to make the Code more uniform throughout the state. He stated there is no legal binding authority other than the local building official. Commissioner Wiggins stressed the interpretations are only to help in the overall development and enforcement of the Code.

Chairman Rodriguez called for a vote on the motion to approve the presentation and process as amended. Vote to approve the motion was unanimous. Motion carried.

**SECOND WORKSHOP ON DEVELOPMENT OF POLICY FOR
RELATIONSHIP OF THE FLORIDA BUILDING CODE TO THE
INTERNATIONAL CODES**

Chairman Rodriguez stated the purpose of the series of workshops is to solicit public comment on the relationship between the Florida Building Code and the International Building Code prior to the

Commission taking the issue up for consideration as a body. He continued stating the first workshop was held during the May meeting.

Public Comment

Ralph Hughes, Tampa

Ralph Hughes offered comment regarding the relationship between the Florida Building Code and the International Building Code. He stated the Commission should take steps to advise the IBCC that any action to accept the Florida Building Code is welcomed. He continued stating if the IBCC enacts Code requirements that differ from the Florida Building Code and it is deemed in the best interest that those requirements be adopted into the Florida Code, then the Commission would act to do so at that time.

Ronnie Spooner, Building Officials Association of Florida (BOAF)

Mr. Spooner offered comment stating he would like to enter a letter into the record. The letter was sent to Chairman Rodriguez, February 8, 2002. The letter read as follows:

“Dear sir, please consider this as a request from Building Officials Association of Florida to place the adoption of the family of International codes during the next Code change cycle on the workplan for the Florida Building Commission. We believe that to keep the state of Florida up to date with the latest technological advances in building codes and to assist in the standardization of building regulations for our nation, it is important for the Florida Building Commission to progress with this concept and BOAF is committed to work with the Commission to improve and advance the Florida Building Code for the benefits of the citizens of the state of Florida.” Mr. Spooner stated the letter was sent by BOAF past president John Barrios.

Lorraine Ross, Florida Building Code Alliance

Lorraine Ross offered comment stating the groups she represents are definitely in favor of Florida moving to adopt the International Family of Codes. She requested the opportunity at the next workshop to present a summary of comments she has collected from a variety of sources.

Ms. Ross added comment concerning declaratory statements. She stated it is appropriate to obtain a list of criteria concerning when declaratory statements should be processed by the Commission versus

issues that are in the area of appeals. She expressed concern that there may be declaratory statements that are viewed as Code changes, it may set the stage for a rule challenge.

LEGAL STAFF
REPORTS/DISCUSSION/RECOMMENDATIONS/APPROVAL

Mr. Richmond announced the Governor signed House Bill 1307 making it now a law of the state of Florida and stated everything concerning the tasks assigned to the Commission through that Bill.

Commissioner Greiner disclosed June 10, 2002, at 10:00 a.m. he attended a meeting in Altamonte Springs at Syntek Pool & Spa Corporation. He stated the purpose of the meeting was to discuss declaratory statements dealing with Section 424.2, Private Swimming Pools, and to reach consensus on issues concerning those declaratory statements, specifically on the subject of main outlets, skimmers, and vacuum release devices and their role in the subject of entrapment.

Mr. Blair conducted a brief overview of the declaratory statement process which was adopted unanimously in March, 2002.

SECOND HEARINGS:

Mr. Richmond directed the Commission to a handout which was distributed to each Commissioner. (See *Draft State of Florida Building Commission Declaratory Statement Attachment.*)

DCA02-DEC-048 - Lake County Building Services Division

Mr. Richmond stated the question pertained to whether the criteria of Section 424.2.6.6.4 allow a single main drain and a skimmer as the required suction inlets. He stated the answer is yes, provided the main drain and the skimmer are installed in compliance with the requirement of the Code in that they be plumbed such that water is drawn through both the skimmer and the main drain simultaneously utilizing a common line to the pump.

Commissioner Greiner moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-063 - Door and Access Systems Manufacturer's Assoc

Mr. Richmond stated the declaratory statement pertained to windload guide intending to simplify calculation of positive and negative windloads on various garage door sizes. He explained the issue should fall under product approval because it is a system of construction. Mr. Richmond stated because the issue is a product subject to approval, it would be inappropriate to issue a declaratory statement. He continued stating he had drafted an order denying the declaratory statement.

Al Mitchell - maker of the declaratory statement withdrew his request for a declaratory statement.

Commissioner Shaw asked if a declaratory statement can be withdrawn up to the point it is to be issued. He then expressed concern that a declaratory statement could be taken through the entire process, unfavorably answered, then withdrawn to be submitted at another time.

DCA02-DEC-070 - Philip J. Childs, P.E., P.A.

Mr. Richmond stated the declaratory statement involved swimming pools using a single main drain in combination with a skimmer, utilizing a common line to the pump, joining six inches before the pump. He stated the declaratory statement refers to the order entered and does consistently comply with the requirement of 424.2.6.6.4.

Commissioner Greiner moved approval of the declaratory statement. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-071 - Leisure Bay Industries, Inc.

Mr. Richmond stated the declaratory statement was held over from the last meeting based on the generality and involves permit problems. He stated no amendment had been received and the declaratory statement can be dismissed.

Commissioner D'Andrea moved dismissal. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

DCA02-DEC-073 - Mermaid Pools of Central Florida

Mr. Richmond stated the issue is whether the criteria of Section 424.2.21.3, allowing an auxiliary pump to be used to drain the pool when needed for fiberglass pools. He stated the Commission recommended at

the last meeting no main drain is required for draining residential fiberglass pools.

Commissioner Browdy moved approval for the declaratory statement. Commissioner D'Andrea seconded the motion.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-077 - George S. Pellington

Mr. Richmond stated the petitioner, representatives and safety organizations are attempting to reach consensus on the issue and it is recommended the declaratory statement be deferred until the August meeting.

Commissioner Wiggins moved to defer the declaratory statement until August. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-078 - Josham Company

Mr. Richmond explained the petitioner is a manufacturer of automatic grease recovery devices that conform to PDI - G101. He continued stating the petitioner has asked whether an automatic grease recovery device as described in the petition would be appropriate to comply with the requirements of Section 1003 of the Florida Building Code Plumbing Volume at a Ruth Chris Steak House in Boca Raton, Florida. Mr. Richmond stated the Commission's recommendation is that the Code does permit automatic grease recovery devices conforming to PDI - G101 and the declaratory statement has been drafted to reflect that.

Commissioner D'Andrea moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-087 - Sioux Chief Manufacturing, Inc.

Mr. Richmond stated the petitioner inquires about the installation of water hammer arresters and the need for access panels. He continued stating the Commission determined access panels are not required when the manufacturer states no maintenance is needed for the life of the unit.

Commissioner D'Andrea moved approval of the declaratory statement. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous.

DCA02-DEC-092 - H & H Manufacturing

Mr. Richmond stated the petitioner is performing sub-contracting work on a design/build plumbing project in Hillsborough County. He continued stating the project utilizes back-to-back and side-by-side bathroom groups. Mr. Richmond stated the petitioner has submitted diagrams and asks whether his layout complies with Section 706.3 of the Florida Building Code Plumbing Volume. He stated the Commission's recommendation is a double sanitary T is an acceptable fitting to pick up back-to-back or adjacent water closets as long as they discharge through several feet of pipe or change of direction before entering the sanitary cross.

Commissioner D'Andrea moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

DCA02-DEC-114 - Florida Extruders International

Mr. Richmond stated the petition concerns mullien design and asks whether Section 1701.4.5.4 of the Florida Building Code Building Volume requires mullion design to one and one-half times the design pressure to comply with the performance criteria contained in that section of the Code. He continued stating the response by the Commission is that Section 1701.4.5.4 does not require mullion design, rather, that mullions be designed to a factor of safety of 1.5, meaning it must be able to resist 1.5 times the design pressure.

Commissioner Wiggins moved approval of the declaratory statement. Commissioner D'Andrea seconded the motion.

Mr. Richmond added the analysis refers to Section 1707 and the declaratory statement refers to Section 1701. He then asked that the declaratory statement be approved subject to confirmation to the appropriate Section references.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-115 - Florida Extruders International

Mr. Richmond stated the issue concerns the wind directionality factor of the standard ASCE 7-98. He explained the issue specifically asks if the load combinations specified in Sections 2.3 and 2.4 of ASCE 7-98 apply to window and sliding glass door analysis, and if the referenced Sections do apply, how are load combinations to be reconciled with the load combinations in Section 2405.3 of the Florida Building Code Building Volume. Mr. Richmond stated the response to the first question is the load combinations do apply, assuming the gravity load for the design components is zero, does not mean that no load combination exists. He continued stating the Commission's opinion is load combinations do exist with the assumption that the dead load is zero. He furthered answering the second question stating the intent of the Code is to treat Chapter 24 and 1606 independently and that the KD value should not be used in Chapter 24.

Commissioner Wiggins directed the Commission to page two of the declaratory statement, the last word in paragraph three, should read "adjustments for the 'KD value.'"

Commissioner D'Andrea moved approval of the motion. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-125 - Florida Home Builders Association

Mr. Richmond stated the petition concerns a pool enclosure being constructed around the area where means of escape leads to as required by Section 1005.4 of the Florida Building Code Building Volume. He continued stating the petitioner asks whether the Code requirement for an escape and rescue opening intend to provide that the opening must discharge to an open area that leads to a public way, or whether the escape may be through a screened enclosure which provides access through a screened door leading away from the residence. Mr. Richmond stated the Commission's recommendation is that an emergency opening escape route can open into a screened enclosure open to the atmosphere where a screened door is provided leading away from the residence.

Commissioner D'Andrea moved approval of the declaratory statement. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-127 - Mike Morello

Mr. Richmond stated the request specifically refers to a declaratory statement to make clear to the City of Palm Coast that the petitioner's position is the correct position. He recommended the declaratory statement be deferred until the August meeting to allow time for the building official to reconsider the issue.

Commissioner Browdy moved to defer the declaratory statement. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-130 - Dr. Jack Reinhardt Inc.

Mr. Richmond stated the petition concerns a termiticide labeled for new construction to be applied to a home in the Brookstone subdivision in Florida, subject to the Florida Building Code. He explained the petitioner asks what is the meaning of the term as described in the petition as a registered termiticide for new construction in the context of Section 1816.1. Mr. Richmond continued stating the second issue is whether a termiticide that has been registered with the Bureau of Pesticides and Pest Control and labeled for new construction, comply with the Florida Building Code. He stated the Commission determined the term "registered" means registered with the Bureau of Pesticides and Pest Control of the Florida Department of Agriculture and Consumer Services, per Chapter 487 of Florida Statutes. He furthered stating the term "registered" does not indicate compliance with the Code. Mr. Richmond stated the petition is not specific enough to determine in what manner the pesticide will be applied leaving compliance with the Code obscure.

PUBLIC COMMENT

Dr. Jack Reinhardt

Dr. Reinhardt requested clarification concerning paragraphs four and five on page two of the declaratory statement. He expressed confusion concerning labeling not being relevant. He stated labeling is the law and according to the EPA, and not following the label, violating compliance, would be a felony.

Mr. Richmond responded Section 1816.1 specifically states termite protection shall be provided by registered termiticides, which are those registered with the Department of Agriculture and Consumer Services, or

other approved methods of termite protection labeled for use as a preventative treatment to new construction.

Dr. Reinhardt stated in context with the petition, the registered list is being referenced, not other approved alternatives.

Mr. Richmond offered clarification stating the registered list does not require labeling.

Dr. Reinhardt continued stating his issue with paragraph five, where it states, "...depends on the manner in which the pesticide is used." He stated the manner in which it is required to be used is the label, which are label instructions.

Sydney Funk, Marketing Specialist, Dow AgriSciences

Mr. Funk explained he is responsible in part for the labeling and registration of their termite control products. He stated in Section 1816.1 it states "registered termiticide," then explained for a product to be registered with the federal or state government it is required to have a label, which reflects the required method of application by both the federal and state jurisdictions, which in Florida is administered by the Department of Agriculture and Consumer Services and by the Bureau of Pesticides.

Deborah Folks, Archer Exterminators

Ms. Folks offered comment stating her company has been in the termite and pest control business since 1981 and has been licensed and registered in the state of Florida to provide product using the label instructions only. She stated their company can only use registered and approved products, applying and using those products according to the label. She continued stating depending on the municipality, there are restrictions on certain products. She appealed to the Commission to achieve more consistency throughout the state in the selection and use of products.

Kemp Anderson, America's Pest Solutions

Mr. Anderson stated his concerns are similar to Ms. Folks concerns regarding the inconsistency of products from county to county throughout the state.

Samantha Newhouse, DOW AgriSciences

Ms. Newhouse offered comment stating the issue is authority. She stated the Department of Agriculture and Consumer Service (DACS) has registered and labeled products which appear on a list provided to the Commission, that are declared allowable for new construction. She continued stating when the local building official is contacted, they disagree with the use of the product and say it is not for new construction. Ms. Newhouse posed to the Commission who is the ultimate authority on which products are going to be used. She appealed to the Commission to resolve the inconsistency.

Ellen Toms, DOW AgriSciences

Ms. Toms stated since 1986 she has been involved with every experimental use permit for the state for new and existing termiticides. She stated the Department of Agriculture in Florida has a very thorough process, more so than many other states. She continued stating any of the products on the approved list by DACS for application at new construction have gone through a very thorough review. She asked if a termiticide is registered with the bureau and labeled for new construction, and it is supplied according to the label, the protocol must follow the label use requirements, then how can it not comply with the Florida Building Code.

Mr. Richmond responded by defining the term "label," according to the Florida Building Code, as "devices, equipment, or materials to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing lab, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards." He stated there appears to be a greater reliance on the label to provide installation instructions which is not inherent in the term in the context of the Florida Building Code.

Commissioner D'Andrea added as part of the registration process with the state, the product must have a label affixed specifying the application of the product. He continued proposing an answer to question #2 *Does a termiticide registered with the Pesticides Bureau and labeled for new construction comply with the Florida Building Code*, in the form of a motion, stating the answer is yes, if the label is part of the registration process with the Bureau of Pesticides and the termiticide is registered for

use in new construction. Commissioner Wiggins seconded the motion.

Commissioner Browdy proposed a friendly amendment to the motion. He added "and it is applied according to the label." Commissioner Wiggins then proposed a friendly amendment adding "if applied as a pre-construction soil treatment."

Commissioner D'Andrea accepted the amendments.

Commissioner Greiner proposed a friendly amendment to the motion stating "provided that it can be applied according to the label."

Commissioner Bassett offered a friendly amendment to the motion stating the motion should read "if instructions contained on the product label."

Commissioner D'Andrea accepted Commissioner Greiner's amendment then stated Commissioner Bassett's amendment may be redundant.

Chairman Rodriguez called for a vote on the motion as amended. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair restated the motion as: the answer to question two is yes, if the label is part of the registration process with DACS and the termiticide is registered for use in new construction, provided it can be applied according to the label and if applied as a pre-construction soil treatment.

DCA02-DEC-131 - Pinellas County

Mr. Richmond stated the petition concerns the installation of an electric water heater in the garage of a home and the requirement of the Florida Building Code for that installation, with the elevation of the source of ignition of 18". He explained the Commission's recommendation concerns an amendment to Section 502.2 of the Plumbing Code and in the relevant section of the Mechanical Code that they be made consistent with the action taken by the Commission to require appliances to be installed per the manufacturer's recommendation during the current glitch fix cycle. Mr. Richmond then stated an electric hot water heater installed in a garage must have its ignition source elevated 18".

Commissioner Shaw stated Mr. Richmonds statement would be contrary to the intention of the TAC. He continued stating the TAC's

intent was that an appliance, whether electrical or gas, would be installed based on its manufacturer's recommendation.

Mr. Richmond stated the Plumbing Code in Section 502.2 states that water heaters having an ignition source shall be elevated such that the source of ignition is not less than 18" above the garage floor. He continued stating Section 304.2 of the Mechanical Volume requires equipment and appliances having an ignition source to be elevated 18" above the floor in hazardous locations, i.e., public garages, private garages.

Commissioner Corn moved approval of the attorney's recommendation that the issue be dealt with in a glitch cycle and until it is glitch fixed, the draft declaratory statement requires elevation. Calpini seconded the motion.

Chairman Rodriguez called for a vote to approve the motion. The vote resulted in 1 opposed (Shaw). Motion carried.

DCA02-DEC-132 - Icyene Inc.

Mr. Richmond stated the petition had been withdrawn by petitioner.

DCA02-DEC-133 - Affordable Fence & Screen Inc.

Mr. Richmond stated the petition concerns fences and doors. He called for a motion to deny or dismiss the petition, or defer the petition until August for an amendment.

Commissioner Kidwell moved to defer the declaratory statement. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous.

DCA02-DEC-124 - Miami-Dade Water and Sewer Department

Mr. Richmond stated the petition concerns whether a water and sewer treatment facility pumping station and well field facility are a group at occupancy under the state of Florida Building Code. He explained the initial petition submitted referred to a building department's action for failing to allow them to obtain a maintenance permit. Mr. Richmond stated the TAC voted to dismiss the request and refer to the local building official and local Board of Adjustment & Appeal for further consideration and determination as an appeal.

Commissioner Wiggins moved approval of the TAC's recommendation to dismiss the request. Commissioner D'Andrea seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-128 - Richard Johnston

Mr. Richmond stated the petitioner requests clarification on the following questions relevant to new construction of relocatable classrooms. He identified the five questions as: 1) *Does "new" include those relocatables that may be new to a specific location?* 2) *Can a school district, Hillsborough, continue to use combustible relocatables by simply moving them from one location to another within the district?* 3) *Can Hillsborough lease existing Type 6 buildings from either a manufacturer or another school district?* 4) *Can Hillsborough purchase Type 6 units currently under lease in the district? Are the Type 6 classrooms acquired by Hillsborough that were existing Type 6 buildings previously in use in another school district as classrooms considered to be new to the district?*

Mr. Richmond continued stating the TAC responded to those questions as: 1) A relocatable may be moved within a school district without being considered new; 2) Hillsborough school district can continue to use combustible relocatables and move them from one location to another within a district; 3) No newly introduced relocatable must meet Type 4 construction requirements for new relocatables; 4) Hillsborough cannot purchase Type 6 units currently under lease in the district; 5) Existing Type 6 classrooms acquired by Hillsborough from another school district are considered to be new.

Commissioner Wiggins moved approval of the declaratory statement. Commissioner Calpini seconded the motion.

Scott Keller

Mr. Keller requested acceptance of the petition to intervene so they may more easily go to DCA if it becomes necessary.

Mr. Richmond stated he had never seen a Petition to Intervene for a declaratory statement. He stated it changes the stature of the proceedings altogether. Mr. Richmond then stated it is an issue which will require more research and recommended the Commission defer the declaratory statement until the next meeting.

Commissioner Wiggins withdrew his original motion then moved to defer the declaratory statement until the next meeting to allow more time for legal to research the issue. Commissioner Calpini seconded the motion.

Commissioner Browdy stated he supports the decision to defer then stated if William Scotsman would like to make a presentation to the Commission, it would be appropriate to allow him the time to make it subject to whether or not he acquires legal status as an intervener.

Chairman Rodriguez called for a vote on the motion to defer. Vote resulted in 14 favoring, 9 opposing. Motion to defer carried.

DCA02-DEC-162 - Florida Extruders International Inc.

Mr. Richmond stated the petitioner is requesting clarification regarding the required internal pressure co-efficient for calculating the wind design pressure for windows and sliding glass doors for a housing project in Venice, Sarasota County, which is in a windborne debris region. He explained the TAC voted to table the declaratory statement request until the petitioner could provide more information.

Commissioner Wiggins moved to table the declaratory statement request. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-166 - Florida Building Materials Association

Mr. Richmond stated the petitioner is seeking declaratory statement regarding clarification of 1707.4 of the Florida Building Code as it relates to the interchangeability of door components. He explained the TAC's recommendation stating door components can be interchanged and exterior door assemblies provided the door components provide equal or greater structural performance as demonstrated by accepting engineering practices on the basis of Section 103.7.1 giving local building officials authority to approve alternate materials. He continued stating door hardware can be interchanged as long as it is the same grade and provides equal or greater performance.

Commissioner Wiggins moved the TAC's recommendation to approve the declaratory statement. Commissioner Parrino seconded the motion.

Carrie Hebrank, Florida Building Materials Association

Ms. Hebrank, the petitioner, offered comment stating the Florida Building Materials Association is asking for tested, approved door assembly components be able to be used in another like door assembly.

Shaun Bolender, American Test Lab

Mr. Bolender inquired whether the petition meets the site-specific requirements of being a declaratory statement.

Ms. Hebrank stated the petition was written on behalf of a door retailer in Northeast Florida who is currently selling tested, approved doors, who had a request from a homebuilder who requested switching the components.

Commissioner Kim expressed concern regarding the components being switched on standard doors and windows stating there is no reliability on how they will perform in a design event. He then proposed a friendly amendment to the motion adding "components can be interchanged provided that they are installed or utilized in the same manner and/or location, and where manufacturer installation specifications are available, they be installed accordingly." The friendly amendment was not accepted, the friendly amendment was then put into the form of a motion to amend the existing motion. The motion for an amendment was seconded.

Chairman Rodriguez called for a vote on the amendment to the original motion. Vote to approve the amendment resulted in 1 in favor and 15 opposing. Motion for amendment failed.

Commissioner Bassett stated TACs are using different criteria for being site specific on a request. He stated the declaratory statement on the table does not meet the criteria used for two other TACs. He then requested clarification regarding the criteria for being site specific.

Mr. Richmond responded to Commissioner Bassett's concern stating site specific requires specific facts and circumstances. He stated in context with the declaratory statement on the table, it would pertain to one particular project.

Chairman Rodriguez called for a vote on the motion supporting the TAC's recommendation to approve the declaratory statement. Vote to

approve the motion resulted in 1 opposed (Bassett). Motion carried.

Commissioner Bassett asked legal to issue specific instructions to the TACs for clarification on the criteria required for site specific.

Mr. Richmond responded the law requires specific facts and circumstances for a declaratory statement to be site specific.

Mr. Dixon interjected staff reviews the declaratory statements to determine whether there is a specific project referenced and then the requests are sent to the TACs to determine whether there are adequate facts to answer the questions.

Commissioner Browdy motioned for reconsideration on DCA02-DEC-131. Commissioner Patterson seconded the motion to reconsider.

Chairman Rodriguez called for a vote on the motion to reconsider. Vote to approve the motion to reconsider resulted in 2 opposed (Bassett, Corn).

Commissioner Shaw referenced the minutes of the Commission action stating the TAC had recommended and the Commission approved that the Plumbing and Mechanical Code be consistent with the Fuel Gas Code. He continued stating the Commission also decided it should be reflected in the glitch bill ensuring a Code change pertinent to the issue.

Chairman Rodriguez stated there appears to be a difference between legal and technical. He explained the Commission has to live by what has been written, and if what has been written is not what was intended, then it should be considered as a glitch. He continued stating if a change is sought, then it has to wait until the next cycle for amendments. He urged staff and the chairs of the TACs to coordinate and ensure the legal interpretation is what the TAC intended.

Commissioner Shaw expressed concern with the conclusions of law in terms of them becoming interpretation that was considered at the TAC level. He stated the interpretation which was made in the conclusion of law, in the case of 131, an ignition source.

Mr. Richmond explained his draft was done so in keeping with making codes consistent and seeking amendments. He stated he was reading the recommendation for a Code amendment, not to make an interpretation.

Commissioner Shaw moved to defer DCA02-DEC-131.
Commissioner Wiggins seconded the motion.

Chairman Rodriguez suggested after the TAC submits their recommendations to legal, the TAC chair could read the declaratory statement for accuracy. Chairman Rodriguez then called for a vote on the motion to defer. Vote to approve the motion was unanimous. Motion carried.

Commissioner Shaw moved to reconsider DCA02-DEC-130.
Commissioner Greiner seconded the motion. Vote to approve the motion to reconsider resulted in 9 in favor 6 opposed. Motion carried.

Commissioner Shaw expressed concern regarding the labeling that the manufacturers produced. He stated the labels produced were assumed consistent with the Code meaning the products will no longer be put into use as they were prior to the Commission action.

PUBLIC COMMENT

Dan Gerber, Attorney

Mr. Gerber offered comment on behalf of portions of the industry effected by the proposed declaration statement. He stated the intentions of the Commission were sound in correcting the previous declaratory statement and in answering the second question in 130. He then stated by incorporating the term "soil treatments" the Commission has excluded many of the registered, approved products, as well as exceeded the scope of its authority. Mr. Gerber proposed an alternate statement, "Yes. A termiticide that has been registered with the Bureau of Pesticides and Pest Control, used in accordance with the product's label, and labeled for new construction complies with the Florida Building Code." He stated the statement is synonymous with the Department of Agriculture and the uses understood by the pest control industry for many decades.

Commissioner Bassett moved approval of Mr. Gerber's wording.
Commissioner Shaw seconded the motion.

Commissioner Wiggins stated the declaratory statement process in this case has been complex. He explained it has gone to the TAC, has gone through extensive discussion and it would be out of order to ignore the TAC's discussion and actions. Commissioner Wiggins stated the question is so broad it may be in order to go back to the original motion or

defer it back to the TAC.

Chairman Rodriguez called for a vote on the motion to approve Mr. Gerber's wording.

Commissioner McCombs asked if the builder and/or the home owner is aware of what system is being used.

Mr. Gerber responded stating law requires posting and notice to the customer by the pest control company.

Chairman Rodriguez again called for a vote on the motion. Vote resulted in 5 favoring the motion and 12 opposing. Motion failed.

Commissioner Kidwell moved to retain legal's advice regarding question 1, 2, and 3, delete question 4, and re-word question 5 to read, "a termiticide registered with the state and labeled for new construction does not necessarily comply with the Florida Building Code, as the final authority for product use rests with the building official.

Mr. Gerber stated the petitioner wishes to withdraw the request for declaratory statement.

DCA02-DEC-167 - Florida Building Materials Association

Mr. Richmond stated the petition was reviewed by the Structural TAC and the Product Approval TAC. He continued stating the Structural TAC's recommendation was the door in question, a one-of-a-kind, 3' X 10' custom mahogany entrance door will meet the Florida Building Code requirements through compliance with one of the following options: 1) Subsection 553.84211 giving local building officials authority to accept custom, fabricated, or assembled doors using rational engineering analysis provided the component parts have been approved at the local or state level for the fabricated or assembled product's use and the components meet the standards and requirements of the Florida Building Code. 103.7 of the Florida Building Code gives the local building official authority to approve custom doors which are designed using rational engineering analysis. He furthered stating the building official must find that the engineering analysis for the purpose intended is at least the equivalent of the standard prescribed in 1707.4.3 of the Florida Building Code.

Commissioner Parrino moved approval of the TAC's

recommendation. Commissioner Greiner seconded the motion.

PUBLIC COMMENT

Shaun Bolender, American Test Lab

Mr. Bolender stated he would like the Commission to consider the definition of the word "custom" and what it constitutes in this and other situations. He continued stating the statutes cited in the response, 553.842, does not address that issue, it merely uses the word "custom." Mr. Bolender stated the petitioner also used the word which does not make the door custom.

Chairman Rodriguez called for a vote to approve the motion. Vote to approve the motion was unanimous.

DCA02-DEC-169 - Florida Extruders International Inc.

Mr. Richmond stated the petition requests clarification regarding whether wood shims or buck, less than one and one-half inches thick is required to extend beyond the internal surface of a window or door. The recommendation is that it is not required, the wood shim or buck is less than one and one-half inches. He continued stating the buck is not required to extend beyond the internal face of the window, however windows must be installed in accordance with the published manufacturer's installation instruction.

Commissioner Parrino moved approval of the recommendation. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous.

DCA02-DEC-170 - Internation Engineering Associates Inc.

Mr. Richmond stated the petitioner is seeking a declaratory statement regarding aircraft hanger doors. He continued stating the specific questions are: *can aircraft hangers be built in Florida without tested hanger doors?* and *can the building official do as suggested in 1706.2 and allow rational analysis by a licensed professional engineer in the state of Florida?* Mr. Richmond stated the TAC's responses are as follows: Yes, hanger doors are custom doors and thus can comply with the Code using 553.842(11); response to question two references the answer to question 1.

PUBLIC COMMENT

Shaun Bolender, American Test Lab

Mr. Bolender requested the Commission consider whether the declaratory statement is qualified to be a declaratory statement. He noted the last sentence states, "we currently have the following hanger doors in for permit, or in design, prior to permitting, and ask that the declaratory statement apply to them."

Commissioner Parrino moved approval of the recommendation of the TAC. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-182 - Bliss & Nyttray, Inc.

Mr. Richmond stated the petition is a request to confirm that designing a wall per ACI 530, Table 2107.1 of the Florida Building Code, limiting the height or length to thickness ratio is not applicable since Table is an empirical requirement. The recommendation is Table 2107.1 is only applicable if the Code empirical design option is used within the limitation criteria of subsection 2103.2.2 of the Florida Building Code.

Commissioner Parrino moved approval of the recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-183 - Master Consulting Engineering Inc.

Mr. Richmond stated the petitioner requests clarification on whether the cladlike pad is in compliance with the intent of Section 304.7 of the Florida Mechanical Code. He stated the TAC's recommendation was that the four-inch thick cladlike pad is within the scope of other approved material, subject to the building official approval and is in compliance.

Commissioner Parrino moved approval of the recommendation. Commissioner Greiner seconded the motion.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-138 - Bellsouth Telecommunications

Mr. Richmond stated the issue was reviewed and discussed by a joint Building / Fire TAC meeting and is contained in their report. He explained the petition pertains to the equivalency of automatic sprinkler required under Section 903.8.1. He continued stating the TAC recommended the following criteria as an equivalent fire protection standard for use in telecommunications spaces located within telecommunications buildings: certified for immediate dispatch on any fire alarm; telecommunications equipment shall be provided with fire/sprinkler protection.

Commissioner Greiner moved approval of the TAC's recommendation. Commissioner Wiggins seconded the motion.

Chairman Rodriguez called for a vote to approve the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-176 - Larry Banks

Mr. Richmond stated the petitioner submitted an amendment to the Mechanical TAC for specificity. He explained the petitioner asks for clarification whether the Code requires air handlers located on a wooden frame platform in a garage to be protected with wheel stops from metal pipes placed to prevent a car from hitting the air handler. Mr. Richmond stated after resolving the legal sufficiency question, the TAC recommended that Section 304.4 requires elevation of appliances in garages unless other protection is provided with the building official being the authority to determine if the other protection is sufficient.

Commissioner Greiner moved approval of the TAC's recommendation. Commissioner Parrino seconded the motion.

Commissioner McCombs expressed concern regarding the TAC addressing the specific concern of the petitioner and stated he was the descending vote at the TAC meeting and would remain a descending vote for this meeting.

Chairman Rodriguez called for a vote to approve the motion. Vote to approve the motion resulted in 1 opposed (McCombs).

DCA02-DEC-177 - Larry Banks

Mr. Richmond stated the petitioner requests clarification pertaining to whether Section 403.3 of the Code requires an exhaust fan in the

garage of a single family home. He continued stating the petitioner amended his petition to include a specific project. Mr. Richmond expressed concern regarding a statement that the city of Orlando asking for installation of an exhaust fan in the garage of a single family home which would be more appropriate for an appeal than a determination on a declaratory statement. He stated the TAC's recommendation was Section 403.3 requires a private garage to either have 4% of its area in windows, doors or other openings, or be mechanically ventilated to 100 CFM per car.

Commissioner Patterson moved approval of the TAC's recommendation. Commissioner McCombs seconded the motion.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-178 - Larry Banks

Mr. Richmond stated the petitioner requests clarification as to whether Section 601.4 of the Code applies to bathrooms, laundry rooms, and storage closets. He stated the petitioner amended the request to include a specific project. Mr. Richmond explained the TAC recommended Section 601.4 of the Code be clarified that air from bathrooms and laundry rooms with a high moisture content and objectionable odors should not be re-circulated and should not have to demonstrate balance return air, and that closets without supply ducts need not have a return. Mr. Richmond noted the request is subject to the same reservations he expressed with the other petitions for Mr. Banks.

Commissioner Patterson moved approval of the TAC's recommendation. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-179 - Larry Banks

Mr. Richmond stated the petitioner asks for clarification whether Section 403.3 of the Code requires mechanical ventilation of a home. He continued stating the petitioner had amended the request for a specific site. Mr. Richmond then stated the TAC recommended Section 403.3 may be met by compliance with Section 403.5 *62, providing that the .35 air change per hour rate for residential living space is normally satisfied by infiltration and natural ventilation. Mr. Richmond stated the petition is again subject to his reservations regarding the City of Orlando.

Commissioner Patterson moved approval of the TAC's recommendation. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-184 - Evans Groups

Mr. Richmond stated the petitioner is requesting clarification of Section 403.3 on two questions: *on a residential garage, does this give the engineer the option to comply with Section 402 or 403, but not necessarily both; and is it the intent of this section to include automobiles in single and multi-family garages.* He stated the TAC recommended sending the request back to petitioner based on legal sufficiency.

Commissioner Patterson moved approval of the recommendation. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-173 - Florida Power & Light

Mr. Richmond stated the petition pertains to state approved performance testers in the context of determining duct credits. He stated the TAC's recommendation was that only Class 1 Burs Raters may serve as state approved performance tester under Section 13-610.1.A.1.

Commissioner Wiggins moved approval of the TAC's recommendation. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-175 - Florida Power & Light

Mr. Richmond stated the petitioner is requesting clarification of Section 13-610.1.A.1 of the Code to determine what is a total duct system as that phrase is used in the section. He stated the TAC recommended a total duct system leakage means all duct leakage to unconditioned space.

Commissioner McCombs moved approval of the TAC's recommendation. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-174 - Florida Power & Light

Mr. Richmond stated the petitioner requests clarification of Section 13.610.1.A.1 to answer the question *what is performance testing?* He

stated the TAC's recommendation is that performance testing per that section, shall be in accordance with the criteria in Chapter 4 - Duct System Air Tightness Test of the Class 1 Florida Energy Gauge Certified Rater Training Manual, Version 1.3, July 1, 1998 edition, excepting Section 4.3.

PUBLIC COMMENT

Miguel Osaga, Florida Power & Light

Mr. Osaga withdrew the petition for declaratory statement 174.

DCA02-DEC-171 - Leon County Community Development,
Department of Growth & Environmental

Mr. Richmond stated the TAC decided not to take action on the declaratory statement which requests clarification relative to the definition of fire wall as used in Section 3401.7.1.2, and whether or not the section applies to R-3 occupancies. He explained the TAC did not take action on the declaratory statement and requested that staff issue a clarification advisory opinion to clarify that it was not the Commission's intent to apply 3401.7.1 to R-3 occupancies and that a proposal has been submitted as part of the glitch Code change process to address this issue and to further advise the building official in the interim, he/she may exempt up to 1,000 square feet from complying with the Florida Building Code, as per Section 101.4.2.5. Mr. Richmond continued stating the TAC voted to request that legal request Legislative authority to grant the Commission authority to issue legally binding interpretations of the Code.

Commissioner Wiggins moved the TAC's recommendation on the declaratory statement. Commissioner Greiner seconded the motion.

Mr. Richmond offered clarification stating formal action on the declaratory statement should be deferred until August.

Commissioner Wiggins amended his motion to clarify the TAC's recommendation means to dismiss the declaratory statement. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-180 - Florida Portable Building Manufacturers
Association

Mr. Richmond stated the request was on the agenda for the Product Approval TAC and was not addressed. He then called for the petitioner to approach for conceptual approval process.

PUBLIC COMMENT

Kevin Crawley, Attorney, Pennington Law Firm

Mr. Crawley stated during the upcoming year the FPBMA will sell approximately 40,000 of the portable buildings throughout the state, generating approximately \$400,000 to the Department of Community Affairs. He explained the way sheds were regulated prior to the inception of the Florida Building Code, was that statutorily the manufacturers had a choice whether to be regulated under DCA's manufactured buildings program, or to be regulated under whatever code applied in the local jurisdiction. He stated the petition seeks a declaration that the Department of Community Affairs has statutory responsibility to enforce the provisions of the Florida Building Code; a declaration with respect to buildings built on-site and do-it-yourself buildings, that the local building official has responsibility to enforce the Florida Building Code; a declaration that there are no minimum size exemptions, which would authorize non-compliance with the Florida Building Code; and that local ordinances may not lawfully operate to exempt any portable building from compliance with the Florida Building Code.

Chairman Rodriguez offered an apology for the oversight for the petition not being noticed for the TAC meeting. He then extended appreciation to Mr. Crawley for being willing to work with the DCA attorneys.

Mr. Richmond acknowledged the petitioner's position is a valid one and asked the Commission for a recommendation to move forward to bring the issues up for consideration at the next Commission meeting.

Wiggins moved approval of legal's recommendation. Commissioner Greiner seconded the motion.

Chairman Rodriguez called for a vote on the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-062 - Airtemp

Mr. Richmond stated he had been advised that the TAC requested

additional information regarding the petition and the information has not been provided.

Commissioner Browdy moved to defer the request until the next meeting. Commissioner Thorne seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-132 - Icyene Inc.

Mr. Richmond stated the petition has been recommended for dismissal for insufficiency. No action was required.

Commissioner Shaw expressed there is reasonable confusion regarding sufficiency. He requested legal bring back scenarios which may be acceptable for sufficiency.

Commissioner Browdy asked at what point an application could be proposed for declaratory opinion in the form of a rule and submit the appropriate documentation that places it in proper posture for consideration. He stated then there would be a rule in place, a form to be completed for a declaratory statement so the Commission would know the request is appropriate for consideration.

Mr. Richmond responded there is a uniform rule already in place, 28-105, which spells out the requirements for petition for declaratory statement, and is available on the website.

Commissioner Browdy asked if it could be required for individuals or entities to use when applying for declaratory statements.

Mr. Richmond responded the Commission does not have the authority to adopt a form for implementation of a Chapter 120 procedure.

PUBLIC COMMENT

Ralph Hughes

Mr. Hughes offered comment suggesting an application be developed for petitioners based on the rule. He stated the Commission should take whatever action that may be deemed necessary to require petitioners to be turned down by the local building officials, then be turned down by a local appeals board before appealing to the Commission for a declaratory statement. He continued stating if something is not done, the

Commission may be consumed with declaratory statements.

DCA02-DEC-142 - DASMA Inc.

Mr. Richmond stated the petitioner is seeking a declaratory statement regarding testing in a manufacturer's in-house facility interpreting the provisions of 9B-72. He stated the question concerned whether testing at a manufacturer's in-house facility is acceptable under the rules of 9B-72 provided that its provision are met. Mr. Richmond stated the TAC's recommendation was certification of independence is required by rules 9B-72.110(1) is applicable to a testing lab, when such laboratory is also the entity issuing the test report demonstrating compliance with the standards specified in the Code. He continued stating if the testing laboratory is not the entity entering the test report or the evaluation report, such testing laboratory is not required to meet the criteria for certification of independence, and such testing laboratory could be a manufacturer's in-house facility. Mr. Richmond stated the TAC found in this case, testing at a manufacturer's in-house facility is acceptable as long as the Code compliance certification, test report, evaluation report, certification listed, is prepared by an evaluation entity certification agency testing lab or architect and engineer approved as per Florida law and rule 9B-72.

Commissioner Parrino moved approval of the TAC's recommendation. Commissioner McCombs seconded the motion.

PUBLIC COMMENT

Al Mitchell

Mr. Mitchell stated DASMA is in agreement with the declaratory statement and would support it.

Mr. Dixon expressed concern stating three of the entities originally identified do not pose a problem with a test being conducted in a manufacturer's facilities. He continued stating, that the testing laboratory who is contracted to come into a manufacturer's facilities will typically inspect the equipment, have personnel qualified to run the test, and supervise the test. He further stated the entity is required by the rule to accredit the testing laboratory that they accept information from either to the Commission's adopted standard or to a standard they certify to the Commission as equivalent. Mr. Dixon then stated a certification agency ensures that the data they accept is from equipment that is adequate to

make those tests. He stated that opening the door to architects and engineers with no criterion for verifying equipment and personnel competency leaves the door wide open to errors.

Chairman Rodriguez called for a vote to approve the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Blair requested clarification from legal staff concerning DCA02-DEC-184 - Evans Group. He suggested the motion may require clarification. He then asked what would be the proper motion for the Commission to make.

Mr. Richmond responded a motion to defer until August would be the proper action.

Commissioner Bassett entered a motion to reconsider DCA02-DEC-184. The motion was seconded. Vote to approve the motion to reconsider was unanimous. Motion carried.

Commissioner Patterson moved to defer DCA02-DEC-184 until the August meeting. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mr. Richmond read a list of declaratory statements which are insufficient: DCA02-DEC-036; DCA02-DEC-049; DCA02-DEC-060; DCA02-DEC-061. He stated the declaratory statements are all being dismissed for lack of sufficient facts and circumstances.

Mr. Dixon reported there was a TAC recommendation for the Commission to request authority from the Legislature for binding interpretation in the Code associated with one of the declaratory . He stated the Study Commission also recommended that the Florida Building Commission should have the authority to issue binding interpretations on the Florida Building Code.

Commissioner Shaw moved approval for the Commission to seek Legislative authority to issue binding interpretations of the Florida Building Code. Commissioner Wiggins seconded the motion.

Mr. Hughes stated he did not say anything about the Commission seeking binding authority but offered support for the Commission to do so.

Chairman Rodriguez called for a vote to approve the motion. Vote to approve the motion was unanimous. Motion carried.

Chairman Rodriguez expressed concern and empathy with how complex a complete understanding of the Florida Building Code and all the procedures is. He proposed that a workshop be held for the Commissioners addressing the Code and the procedures relating to implementing and refining it.

Ms. Ross offered comment supporting Mr. Hughes comments concerning the number of declaratory statements that are appearing. She suggested the process be clarified at the next meeting.

Mr. Dixon added the Legislature created the advisory opinion approach to divert some of the initial flood of declaratory statements. He stated as time goes on, declaratory statements will decrease due to the vague issues being clarified.

PUBLIC COMMENT

Chairman Rodriguez called for comment on the development of policy for relationship of the Florida Building Code to the International Building Code. No one approached for comment.

Chairman Rodriguez then called for public comment.

Jim D’Pietro, Broward Board of Rules and Appeals

Mr. D’Pietro recommended to the Commission that they have a policy not to accept handouts at the meetings. He stated when an individual or an attorney moves forward and drops off a packet or gives it to legal, or expects the Commission to look at a document, it may be better to stick with the agenda.

Commissioner Bassett expressed concern regarding the building inspector tests being given based on the International Code rather than the Florida Building Code. He stated he is not comfortable with individuals taking the test for inspector for the Florida Building Code being tested on a Code that is not being used currently.

Mr. Dixon responded stating the appropriate licensing board would need to be contacted as they make the determination concerning the tests which are administered.

Commissioner Bassett moved to direct staff to initiate discussion with the appropriate licensing board regarding building inspector tests. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR COMMISSION'S AUGUST MEETING

Mr. Blair reviewed the committee assignments for the Commission's August 12 and 13, 2002 meeting.

SUMMARY AND REVIEW MEETING WORK PRODUCTS

Chairman Rodriguez summarized the work products stating the Commission has decided Chair's discussion issues and accessibility waivers. He stated the Commission had decided on Education, Product Approval/Prototype/Manufactured Buildings Program Oversight Committees, on Accessibility, Code Administration, Mechanical, Energy, Fire, and Structural TACs. Chairman Rodriguez then stated the Commission has discussed the Commission/BOAF Code Interpretation process and decided on requests for declaratory statements, decided on legal staff's discussion issues, and has conducted the second discussion on the relationship of the Florida Building Code to the International Code, heard public comment, and reviewed assignments and issues for the August meeting.

ADJOURN

No further business discussed, meeting adjourned at 2:52 pm.