

STATE OF FLORIDA

Florida Commission on Human Relations

June 11, 1999

MEMORANDUM

To: Suzanne H. Schmith, Staff Attorney Florida Building Commission

From: Evelyn D. Golden, Assistant General Counsel Florida Commission on Human Relations

Re: What authority do local building officials have to enforce the provisions of Section 760.23(10)(d), F. S. regarding design/construction of multifamily dwellings?

Section 760.23(10)(d), F. S., provides in pertinent part the following:

"State agencies with building construction regulation responsibility or local governments, as appropriate, shall review the plans and specifications for the construction of covered multifamily dwellings to determine consistency with the requirements of this subsection."

The Office of General Counsel has consistently interpreted this provision in the statute to require the local building official with authority over building construction, to review all plans and specifications for the construction of multifamily dwellings, to determine consistency with the requirements of the Fair Housing Act (Act) as set forth in section 760.23(10), F.S. The local building officials' authority is grounded in this state statute as well as any local ordinance or code, to enforce this provision in the Act. If the plans and specifications are not consistent with the Act, the local building official is entitled to withhold a certificate of occupancy or withhold issuing a building permit, if the plans/specifications do not comply with the standards set forth in 760.23(10), F. S. Failure to enforce this section of the Act, may subject local building officials to lawsuits brought by aggrieved persons, under the Act.

If the review results in denial of a building permit or certificate of occupancy for failure to comply with the requirements of the Fair Housing Act as set forth in section 760.23(10), F. S., then the builder has the right to appeal the decision to the City or County Commission or board of a city or county commission with jurisdiction to review such permitting decisions.

Thank you for allowing FCHR to assist with this concern.

