

August 17, 1999

Mr. John Rimes
Staff Attorney
Board of Funeral and Cemetery Services
Office of the Attorney General
PL-01 The Capitol
Tallahassee, Florida 32399-1050

RE: Proposed Rule 3F-13, F.A.C.

Dear Mr. Rimes:

Representatives of the Florida Building Commission met with representatives of the board on August 8, 1999 to discuss the provisions of the above-styled rule. We appreciate the opportunity to participate in the board's rulemaking process and endeavor to fulfill the commission's responsibility, pursuant to House Bill 3673, to provide technical assistance to the board in this matter.

As discussed at the meeting, the commission is concerned with provisions of the proposed rule which are beyond the authority of the board to adopt. The specific provisions include rule sections 3F-13.003(2)(c) and (j), which exempt certain mausoleum structures from requirements for parking and fire hydrants, as well as from the obligation to pay radon fees and impact fees. These requirements are not within the realm of building codes and may infringe upon local government authorities granted by separate statutes. While HB 3673 authorizes the board to maintain within its administrative rules provisions which do not directly relate to construction standards, the commission questions whether these provisions would invalidate the rule as a whole. As the commission's attorney, I have advised that granting exemptions from the above requirements is within the authority of the Florida Legislature and, perhaps, the Department of Insurance.

Another issue raised by the commission is that the rule format is not compatible with building code format. However, the commission has offered to send the proposed rule to a contractor for reformatting consistent with building code provisions. The contractor's work product will be forwarded to the board as soon as it is available.

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Thank you for your consideration of these comments and concerns with the proposed rule. If you have questions or need further information from the commission or its staff, please contact me at 922-1689.

Sincerely,

Suzanne H. Schmith
Staff Attorney
Florida Building Commission

cc: Rick Dixon, Executive Director
Florida Building Commission
Members of the Mausoleum Subcommittee