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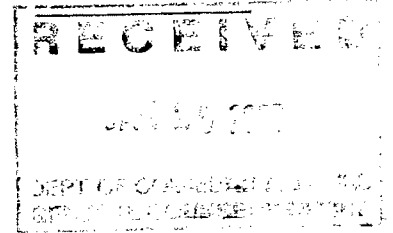
JAMES M. NICHOLAS
Board Certified Civil Trial Lawyer
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January 23, 2007

General Counsel Acting as Agency Clerk
Department of Financial Services
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-0300



Re: Townhomes of Suntree – Petition for Declaratory Statement

Gentlemen:

Pursuant to *Florida Statute § 120.565*, enclosed please find both a hard copy, as well as an electronic copy of Petitioner, Townhomes of Suntree's, Petition for Declaratory Statement. By copy of this letter, I have also provided this Petition to Paula Ford, Department of Community Affairs, Building Codes and Standards.

I appreciate your assistance in this matter. Should you have any questions, or need any further information, please feel free to call me.

Yours very truly,

A handwritten signature in cursive script that reads "James M. Nicholas".

James M. Nicholas
(Stamped in Mr. Nicholas' absence to avoid delay)

JMN/jls
Ms. Paula Ford
Department of Community Affairs
Building Codes and Standards
2555 Shumard Oak Boulevard
Tallahassee, FL 32399

DCFA 17-DEC-016
FILING AND ACKNOWLEDGEMENT
FILED, on this date, with the designated
Clerk, receipt of which is hereby
acknowledged.

A handwritten signature in cursive script that reads "Paula P. Ford".
Paula P. Ford
Commission Clerk

Date

PETITION FOR DECLARATORY STATEMENT
BEFORE THE FLORIDA DEPARTMENT OF FINANCIAL SERVICES

IN THE MATTER OF:

TOWNHOMES OF SUNTREE

Case No.: *125709*

PCA07-DEC-016 ENT
FILED
C
Paula P. Fry
Commissioner

PETITION FOR DECLARATORY STATEMENT
Before Department of Community Affairs Building Codes and Standards

IMPORTANT: BEFORE FILING, PLEASE READ RULE 69A-60.007(5),
ON PAGE 5 OF THIS PETITION FORM

Petitioner, **TOWNHOMES OF SUNTREE**, pursuant to Florida Statutes § 120.565, Florida Administrative Code, Chapter 28-105, and Rule 69A-60.007, the Florida Fire Prevention Code, hereby requests a declaratory statement from the Florida Department of Financial Services and as grounds therefore states the following

1. Petitioner's Name and Address:

Name: TOWNHOMES OF SUNTREE
Address: 145 – 231 Augusta Way, Melbourne, Florida 32940
Telephone No.: (321) 757-3699
Facsimile No.: (321) 242-6723
e-mail address: mfb1143@peoplepc.com

2. Name and Address of Petitioner's Attorney or Qualified Representative, if any:

Name: James M. Nicholas, Esquire
Address: 1790 Highway A1A, Ste 202, Satellite Beach, FL 32937
Telephone No.: (321) 777-6339
Facsimile No.: (321) 777-6340
e-mail address: jknlegal@aol.com

3. Statute(s), Agency Rule(s), Agency Order(s) and/or Code Section(s) on which the Declaratory Statement is Sought (Please Include Specific Subsections, if any):

Petitioner is requesting a Declaratory Statement with regard to the application of Florida Building Code, Section 1521.4 to Brevard County, Florida. More specifically, does Brevard County fall within a "High-Velocity Hurricane Zone" as defined by Section 1521 of the Code, and therefore, subject to the requirements of Sec. 1521.4

4. Description of How the Statute(s), Agency Rule(s), Agency Order(s), and/or Code Section(s) May Substantially Affect the Petitioner in the Petitioner's Particular Set of Circumstances:

A Declaratory Statement will bring resolve to an ongoing dispute between the Petitioner's appraiser and the appraiser selected by State Farm Insurance Company, which takes the position that Brevard County is not within a High-Velocity Hurricane Zone, and therefore, the "25% Rule" set forth in Section 1521.4 does not apply. The Petitioner disagrees since the Map clearly includes Brevard County, and legal counsel for DFS (Mr. Richard Kessler, Esquire) had previously expressed the opinion of DFS that Brevard County is, indeed, included in the High Velocity Hurricane Zone as defined by Section 1512 of the Code.

5. Address of The Building or Structure, or Proposed Building or Structure, Affected by this Petition, if applicable:

145 – 231 Augusta Way, Melbourne, Brevard County, Florida 32940

6. If this Petition Involves a Ruling of an Authority Having Jurisdiction, the Name, Address and Phone Number of the Authority Having Jurisdiction:

NOT APPLICABLE.

7. Please Check the Box Indicating Whether You Filed an Appeal of a Ruling of the Authority Having Jurisdiction, if applicable:

PLEASE NOTE: Rule 69A-60.007(5), Florida Administrative Code, on the last page of this document, requires that a person having a dispute with a local fire official must complete the local appeal process PRIOR to filing a petition for declaratory statement. Therefore, if your circumstances involve a dispute with a local fire official and you have not appealed the decision of the local fire official, this petition will be dismissed until the local appeal process has been completed and you have received an adverse ruling by the local appeals board, commission, or council.

NOT APPLICABLE.

8. If an Appeal Was Filed, Please State the Response or Outcome of the Appeals Board and Attach a Copy Of All Official Orders or Notices:

NOT APPLICABLE.

9. Have You Filed or Do You Plan to File this or a Similar Question with any Other State or Local Agency?

No

10. If Yes, Please State the Name of Each State or Local Agency:

NOT APPLICABLE

11. Are you involved in any litigation related to the question(s) presented in this case?

YES.

12. If yes, please describe briefly

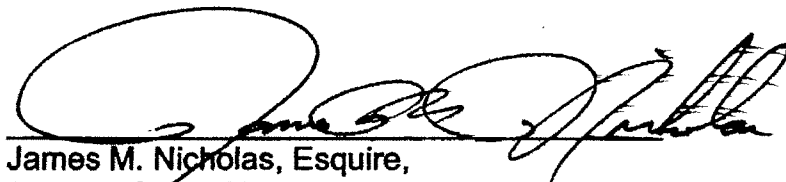
The Petitioner, a Home Owners Association, presently has pending against State Farm Insurance Company, under its Windstorm Policy, an action for damages to an area of its roof far greater than 25% of the total roof area or roof section on all 13 roofs in the Petitioner's complex, thereby, requiring the total replacement of all 13 roofs, in order to conform with the building requirements of Section 1521 of the Florida Building Code.

While State Farm agrees that the damages to the roof systems are, indeed, greater than 25% of the total roof area of the existing structures, it takes the position that the Petitioner need not conform with the more stringent building requirements for roof replacements mandated by Section 1521 since, according to State Farm, Brevard County (where this property is located) is NOT located within a "High Velocity Windstorm Zone." The Petitioner disagrees with State Farm's position, as do the parties' respective engineers and appraisers.

13. QUESTION(S) (Please be Specific):

Does Brevard County, Florida, or any part of it, fall within the "High Velocity Hurricane Zone," as defined by Section 1512 of The Florida Building Code, thereby requiring compliance with Section 1512.4 of the Code

Respectfully submitted this 22nd day of January 2007.


James M. Nicholas, Esquire,
Attorney for Petitioner.

Mail original to:
General Counsel Acting as Agency Clerk
Department of Financial Services
612 Larson Building
200 East Gaines Street
Tallahassee, Florida 32399-0300