



STATE OF FLORIDA

# DEPARTMENT OF COMMUNITY AFFAIRS

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

CHARLIE CRIST  
Governor

THOMAS G. PELHAM  
Secretary

April 12, 2010  
*Via Facsimile Transmission*

Ted Berman, P.E.  
Product Approval System Administrator  
Ted Berman and Associates LLC  
925 41st Street, Suite 104  
Miami Beach, FL 33140  
Fax: (786) 206-6017

**RE:** Product Numbers FL13534 and 13535

Mr. Berman:

I have reviewed the Commission's recommendation regarding the above-referenced products together with the e-mail of April 9, 2010, from Mr. Gonzalez on behalf of the applicant and a Emergency Motion for Injunctive Relief filed on behalf of Coastal Windows and Doors by Michael B. Stevens, Esq. I have further had an opportunity to discuss this matter with Mr. Stevens on Friday, April 9, 2010. Please refrain from taking any action on these applications pending review by the Commission during its meeting the week of June 8, 2010, at the Rosen Centre in Orlando.

At this point, there are competing and conflicting positions concerning ownership of the materials submitted in relation to the products in question. By May 6, 2010, the parties should submit documentation to the Department supporting their claims as to ownership as well as any argument related to whether that is even a material issue. The relevant law could be read to restrict the Commission's review to only technical merit and the relation of the documents to the manufacture of the products rather than including matters related to intellectual property. In any event, the type of analysis required to resolve the issues required by the voted action of April 7 in an inappropriate subject for staff decision and will have to be brought back for further action by the Commission.


2555 SHUMARD OAK BOULEVARD ♦ TALLAHASSEE, FL 32399-2100  
850-488-8466 (p) ♦ 850-921-0781 (f) ♦ Website: [www.dca.state.fl.us](http://www.dca.state.fl.us)

♦ COMMUNITY PLANNING 850-488-2356 (p) 850-488-3309 (f) ♦ FLORIDA COMMUNITIES TRUST 850-922-2207 (p) 850-921-1747 (f) ♦  
♦ HOUSING AND COMMUNITY DEVELOPMENT 850-488-7956 (p) 850-922-5623 (f) ♦

Ted Berman, P.E.,  
Product Approval System Administrator  
April 12, 2010  
Page 2

In the present posture, FL13534 and FL13535 can not be approved by the Commission pending further proceedings. If the Commission determines that ownership is a relevant issue, I anticipate that those proceedings would involve an administrative hearing at the Division of Administrative Hearings pursuant to Chapter 120. I appreciate your diligence in this regard and please feel free to forward this correspondence as necessary.

Sincerely,



James L. Richmond,  
Deputy General Counsel and Attorney for  
the Florida Building Commission

cc: Mo Madani  
*by hand delivery*

Chairman Raul Rodriguez, AIA  
*by electronic mail*

Michael B. Stevens, Esq.  
*by facsimile transmission*  
(561) 640-3050

Allison L. Friedman, Esq.  
20533 Biscayne Boulevard  
Suite 4-435  
Aventura, Florida 33180

Jesus Gonzalez, P.E.  
*by electronic mail*  
[jgconsultants@charter.net](mailto:jgconsultants@charter.net)

Hortensia Orellana  
*by electronic mail*  
[madena.hn@hotmail.com](mailto:madena.hn@hotmail.com)