

**Declaratory Statement Legal Report**  
**October 9, 2005**  
**Orlando, Florida**

**DCA05-DEC-159 by Ron Lambert of GrayStone of Florida, Inc.** Petitioner seeks a Declaratory Statement to clarify whether a specific product requires product approval in accordance with Rule 9B-72(Product Approval) of the Florida Administrative Code.

Petitioner in DCA05-DEC-159, Ron Lambert, of GrayStone of Florida, Inc., seeks clarification on whether or not cementitious stucco coating falls within the realms of product approval in Rule 9B-72 of the Florida Administrative Code (F.A.C.). There is an original and amended petition. The following question is asked:

**Question 1:** “Does cementitious stucco coating fall within Rule 9B-72?”

**Answer:** NO.

**DCA05-DEC-173 by Thomas J. Baird, Attorney, Okeechobee County (deferred)**

**DCA05-DEC-176 by John Herring, Chair, Florida Executive Co., WTCA (withdrawn)**

**DCA05-DEC-177 by Billy Tyson, Madison County (incomplete)**

**DCA05-DEC-175 by Gene Boecker, AIA, Code Consultants, Inc.** Petitioner seeks a Declaratory Statement on an interpretation of Section 513.1 of the Florida Building Code, Mechanical, and section 403.15 of the Florida Building Code, Building.

**Question 1:** “Is it acceptable to provide a mechanical smoke control system that operates on a selective basis to provide pressurization only to the public/common corridor with the intent to limit smoke migration from the guestrooms to the corridor?”

**Answer:** The building in question as a whole must be provided with a smoke control system in accordance with the design criteria of Section 403.15 of the Florida Building Code, Building, Section 513.2 of the Florida Building Code, Mechanical and well established principles of engineering. It is the responsibility of the designer to configure the appropriate smoke control system for the building in question for compliance with the Code.

**Question 2:** “Is it acceptable, to consider the open parking garage as inherently smoke protected through passive means by virtue of it being categorized as an open parking garage?”

**Answer: YES.** The criteria for open parking garage in Section 406.3 of the FBC, Building are acceptable means for providing natural smoke control for the building.

**Question 3:** “Is it acceptable to provide direct egress to the exterior for the ground level retail spaces in lieu of a mechanical smoke control system?”

**Answer:** See answer to Question 1.

**Note:** Petitioner provided clarification as to name of project (Water Tower) and location (City of Miami).

**DCA05-DEC-162 by Irnia Tokar, Project Manager, WCI Communities, Inc.**

Petitioner seeks a Declaratory Statement on an interpretation of Sections 506.1, 506.3 and 506.4 of the 2004 Florida Building Code, Building.

**Question 1:** “Is it the intent of the code in Sections 506.1, 506.3, and 506.4 to give an area increase credit for the NFPA 13R sprinkler system?”

**Answer: NO.** In Section 506.1, the per floor area increase credit for sprinkler protection is determined in accordance with Section 506.3 which specifically gives the credit to buildings equipped with NFPA 13 sprinkler systems (section 903.3.1.1). Therefore, the use of a NFPA 13R sprinkler system does not apply to this credit and cannot be taken. Section 506.4, Exception (2), defines the criterion for calculating the maximum area of a building equipped with a NFPA 13R sprinkler system based upon the allowable area per floor as determined by Section 506.1.

**Question 2:** “Is it the intent of the code in Sections 506.1, 506.3, and 503.4 to give an area increase credit for the NFPA 13 sprinkler system?”

**Answer: YES.** Again, Sections 506.1 and 506.3 both give area increase credit specifically for buildings equipped with a NFPA 13 sprinkler system. In addition, Section 506.4 gives the maximum area of a building based upon the per floor area credit given in Section 506.1, which refers to buildings equipped with a NFPA 13 sprinkler system.

**DCA05-DEC-170 by Charles W. Brammer, President, Eagles Nest Development CO., LLC. (Withdrawn)** Petitioner seeks a Declaratory Statement interpreting the proper code applicable to fire separation and suppression in the proposed T-hangar project.

**Question 1:** “Should fire separation for aircraft hangars be in accordance with Section 412.2.6 of the 2004 FBC, Building?”

**Answer: NO.** Section 412.2.6 of the 2004 FBC, Building specifically refers to the requirements for fire suppression of aircraft hangars. It does not give any requirements for fire separation. Therefore, fire separation must be in accordance with section 708.1 in

the 2004 FBC, Building, which is also in accordance with the answer given in BOAF Interpretation #3794.

**Question 2:** “Do Sections 4.1.3 and 8.2.2 of NFPA 409 apply in lieu of Section 708.1 Exception of the 2004 FBC, Building for fire separation in T-hangar aircraft buildings referenced in Section 412.2 of the 2004 FBC, Building?”

**Answer:** See answer to Question 1

**Vote:** 5-3 (pass)

**Note:** Clarification from the Committee—Application of Section 708.1 of the Florida Building Code, Building to T-Hangars has unintended consequences.

**DCA05-DEC-174 by James E. Kelley, Jr., AIA, Fugleberg Koch.** Petitioner seeks a Declaratory Statement on an interpretation on the term “Townhouse” in both the 2004 FBC, Building and the 2004 FBC, Residential.

**Question 1:** “Can single family Townhouses of 8 units per building be constructed with the sole use of the 2004 Florida Building Code, Building for all requirements including Section 705.4.1 Townhouse fire separation requirements and the definition of Townhouse as listed in subchapter 13-2 and therefore not be required to meet the definition of Townhouse in the Florida Building Code, Residential?”

**Answer: YES.** The design of the project in question is outside the scope of the 2004 FBC, Residential. The 2004 FBC, Residential applies only to townhouse as defined in Chapter 2. Chapter 2 defines townhouse as “A single-family dwelling unit constructed in a group of three or more attached units with property lines separating each unit in which each unit extends from foundation to roof and with open space on at least two sides.”

**Question 2:** “If required to meet the Florida Building Code, Residential definition for Townhouse, is the “open on two sides” requirement met when the townhouse unit is two stories, since two wall faces: the second level wall and ground level wall are open?”

**Answer:** See answer to Question 1.

**DCA05-DEC-178 by Paul J. Quintana, Production Manager, All American Shutters.** Petitioner seeks a Declaratory Statement on an interpretation of Sections 1005.4.3, 1005.4.4, and 1005.4.5 of the 2001 FBC, Building.

**Question 1:** “Does the design and installation of the hurricane shutters in question satisfy the requirements of Sections 1005.4.3 and 1005.4.4 with regards to the exemption of Section 1005.4.5?”

**Answer:** With regards to hurricane shutters as applied to the secondary means of escape, the answer is **YES**. However, with regards to “the at least one means of escape”

requirement in Section 1005.4.5, the passage provided by protected window #19 is considered an obstruction and does not meet the definition for “means of escape” as defined in Chapter 2. The clear space allowed when one panel (14” wide) is removed is not large enough to allow the occupant to escape in an emergency.