

STATE OF FLORIDA
DEPARTMENT OF COMMUNITY AFFAIRS

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Governor

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Secretary

**BOARD MEETING
OF THE
FLORIDA BUILDING COMMISSION**

**PLENARY SESSION
August 14, 2002**

PENDING APPROVAL

The meeting of the Florida Building Commission was called to order by Acting Chairman Nick D'Andrea at 8:00a.m., on Wednesday, August 14, 2002, at the Rosen Centre Hotel, Orlando, Florida.

COMMISSIONERS PRESENT:

Raul Rodriguez, Chairman
Dan Shaw
Peggy Patterson
Hamid Bahadori
Michael Mc Combs
Craig Parrino
George Wiggins
John Calpini
Leonard Lipka
Karl Thorne
Nick D' Andrea
Richard Browdy
Stephen Corn
Dale Greiner
Paul Kidwell

Ed Carson
Steven Bassett
Dr. Diana Richardson

COMMISSIONERS ABSENT:

Bob Leonard
Christ Sanidas
Do Y. Kim

OTHERS PRESENT:

Rick Dixon, Executive Director
Jim Richmond, Legal Advisor
Jeff Blair, FCRC

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WELCOME

Acting Chair Nick D'Andrea welcomed Commissioners, staff and the public to the August 14, 2002 Florida Building Commission meeting. He announced that Chairman Rodriguez was away on business and would return for September's meeting.

Chairman D'Andrea stated the TACs would be providing reports on their recommendations on the Code amendments which meet the requirements for the first cycle of proposed amendments. He continued stating the amendments would be posted on the website and the Commission would then vote on the proposed amendments during the October meeting, allowing time for the public to review and comment on the amendments.

Chairman D'Andrea then introduced a new member to the Commission, Herminio Gonzalez, who replaces Frank Quintana serving as the County Code representative.

AGENDA REVIEW AND APPROVAL

Mr. Blair briefly conducted a review of the meeting agenda. He stated the meeting would include recommendations from the Chair, TAC appointments, privatization forms, and other issues for the Commission's consideration. He continued stating the Commission would hear and take action on Accessibility Waiver Applications as well as a number of Declaratory Statements. Mr. Blair furthered the Commission would hear TAC reports and recommendations including some preliminary recommendations for modifications to the Code to be considered by the Commission during the October meeting.

Mr. Blair continued there would be a discussion on the Education Training Program, a report on the BOAF Advisory Opinion Project, and public comment.

Commissioner Lipka moved approval of the agenda. Commissioner Parrino seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND APPROVAL OF JULY 2, 2002 MEETING MINUTES

Commissioner Wiggins moved approval of the July 2, 2002 Commission meeting minutes. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND UPDATE OF COMMISSION'S UPDATED WORKPLAN

Mr. Blair conducted a brief overview of the Commission's workplan. He referenced the *Prioritization of Workplan Tasks 2002* document which had been included in each Commissioner's packet. He identified and explained the proposed changes to the workplan.

Commissioner Lipka moved approval of the updated workplan as amended. Commissioner Wiggins seconded the motion.

Commissioner Browdy referenced task EE, Develop the Commentaries for the Code and each SubCode, and noted interpretation and commentaries on the Code are now occupying 99% of the Commission's time. He asked if there was a procedure in place to accelerate the development of those commentaries.

Mr. Dixon responded stating he had investigated the possibility of hiring a contractor to assist by working with the TACs thereby accelerating the process and relieving staff. He stated he did not receive a final answer regarding a contractor but should have a report at the next Commission meeting.

Vote to approve the motion was unanimous. Motion carried.

CHAIR'S DISCUSSION ISSUES AND RECOMMENDATIONS

Chairman D'Andrea opened by stating during the October meeting the Commission would review and decide on proposed Code changes. He stated the cycle of Code amendments would correct glitches and is designed to minimize changes during the transition period allowing the new Code to go into effect with as few changes as possible.

Chairman D'Andrea continued stating Commission Chairman Rodriguez had made TAC and POC appointments as follows: Herminio Gonzalez will serve on the Product Approval POC; Ken Gregory will serve on the Plumbing TAC. Chairman D'Andrea then referenced two forms which were identified earlier in the meeting; the Private Provider Plan

Compliance Affidavit and the Notice to Building Official Abuse of Private Provider; explaining the Legislature mandated provision of these forms to local jurisdictions for use when the Private Provider Bill becomes effective October 1, 2002.

Commissioner Lipka moved approval to initiate Rule making and to conduct a Rule development workshop at the September meeting. Commissioner Wiggins seconded the motion.

Commissioner Parrino inquired about the Plan Compliance Affidavit referencing the bottom of the form where a Notary Public's signature is requested. He asked if a registered engineer or architect signed and sealed the form why a Notary would be required.

Mr. Dixon responded stating in some instances a non-engineer or non-architect would be allowed to be private providers and would require a Notarized signature. He explained it was recommended by the Building Official's Association of Florida and noted on the Notice to Building Official form the certification statements requiring a Notarized signature as well. It was then agreed to note on the forms that a Notarized signature is not required if the form is signed by a registered engineer or architect.

Commissioner Shaw requested clarification regarding the question mark on the Private Provider form.

Mr. Dixon explained the law gives specific authority to building officials to review plans and conduct inspections, however it places restrictions on the time given to perform those functions. He stated the question mark denotes whether the statement is clear to that effect. Mr. Dixon continued stating there are limitations to the building official's authority and the language can be refined during the Rule development workshop.

Vote to approve the motion was unanimous. Motion carried.

CONSIDERATION OF ACCESSIBILITY WAIVER APPLICATIONS

Mr. Mellick stated the Council did not have a quorum for formal motions and recommendations but noted the Council members present did reach consensus on the following waiver applications:

#1 Davie Campus, Jewish Federation of Broward County

Mr. Mellick stated the Council recommended approval of the waiver subject to accessible bleacher seating being provided and illustrated on the plans, and providing companion seating as well.

Commissioner Richardson moved approval of the waiver. The motion was seconded. Vote to approve the motion was unanimous. Motion carried.

Commissioner Richardson requested product information regarding accessible bleachers be made available to the Commission.

#2 Hollywood 10 Movie Theater

Mr. Mellick stated the representatives provided an excellent presentation in terms of the amount and location of accessible seating. He continued stating the Council recommended to approve the waiver application as presented.

Commissioner Wiggins moved approval of the waiver application. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#3 Mandarin Cinemas

Mr. Mellick stated due to the unique character of this case, the Council had no jurisdiction, therefore the Council made no recommendation.

Mr. Richmond stated federal guidelines prohibit any alterations diminishing accessibility. He continued stating the Council nor the Commission has authority to waive conditions prohibited by federal law. Mr. Richmond then stated the Commission would deny the waiver application based on lack of jurisdiction.

Commissioner Richardson moved denial of the waiver based on lack of jurisdiction. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#4 AMC Altamonte Springs 18-Plex Theater

Mr. Mellick stated the Council found a shortage of seating in two

sections of the theater furthering the applicant has agreed to provide the additional seats required. He continued stating the Council recommended approving the waiver application provided they meet the seating requirements as well as make adjustments in the lower level to meet the preferred seating which most other theaters do.

Commissioner Wiggins moved approval of the Council's recommendation to approve the waiver application with conditions. Commissioner Lipka seconded the motion.

Commissioner Richardson noted on floorplan #2, the path of travel to the wheelchair seating area via a ramp indicates a width of 3 feet. She stated the width should be 42 inches as required by federal guidelines.

Vote to approve the motion was unanimous. Motion carried.

#5 World Gym Fitness Center

Mr. Mellick explained the Council recommended to deny the waiver due to lack of financial hardship.

Commissioner Richardson moved denial of the waiver application. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

#6 Law Offices - Kallins and Little

Mr. Mellick stated the building official suggested the applicant bring the case before the Council even though the applicant is within the requirements of the five person maximum on the second level. He continued stating the Council recommended granting the waiver with the condition the applicant does not exceed the five person limit on the second floor.

Commissioner Richardson moved approval. Commissioner Lipka seconded the motion. Vote to approve the motion was unanimous. Motion carried.

COMMITTEE REPORTS AND RECOMMENDATIONS

Special Occupancy TAC

Commissioner Thorne presented the report for the Special

Occupancy TAC. (See *Special Occupancy Technical Advisory Committee Report* Attachment.)

Commissioner Lipka moved approval of the report. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Fire TAC

Commissioner D'Andrea presented the report from the meeting of the Fire TAC. (See *Fire Technical Advisory Committee Report* Attachment.)

Commissioner Wiggins moved approval of the report. The motion was seconded. Vote to approve the motion was unanimous. Motion carried.

Code Administration TAC

Commissioner Thorne presented the report of the Code Administration TAC. (See *Code Administration Technical Advisory Committee Report* Attachment.)

Commissioner Wiggins moved approval of the report. Commissioner Browdy seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Electrical TAC

Commissioner McCombs presented the report of the Electrical TAC. (See *Electrical Technical Advisory Committee Report* Attachment.)

Commissioner Wiggins moved approval of the report. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Mechanical TAC

Commissioner D'Andrea reviewed the report of the Mechanical TAC. (See *Mechanical Technical Advisory Committee Report* Attachment.)

Commissioner Bassett moved approval of the report. Commissioner Wiggins seconded the motion. Vote to approve the motion was

unanimous. Motion carried.

Plumbing TAC

Commissioner Shaw presented the report of the Plumbing TAC.
(See *Plumbing Technical Advisory Committee Report Attachment.*)

Commissioner Wiggins moved approval of the report. Commissioner Lipka seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Structural TAC

Commissioner Parrino presented the report of the Structural TAC.
(See *Structural Technical Advisory Committee Report Attachment.*)

Commissioner Bassett moved approval with corrections to the typographical error in the date. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Energy TAC

Commissioner Bassett presented the report of the Energy TAC.
(See *Energy Technical Advisory Committee Report Attachment.*)

Commissioner Greiner moved approval of the report. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Product Approval / Prototype Building / Manufactured Buildings Programs Oversight Committee (POC)

Commissioner Carson presented the report and recommendations of the Product Approval / Prototype Building / Manufactured Buildings Programs Oversight Committee. (See *Product Approval / Prototype Buildings / Manufactured Buildings Oversight Committee Minutes, July 1, 2002 Attachment.*)

Commissioner Carson noted four items requiring Commission approval. He stated three applications for product approval entities to be voted individually. He identified the three applicants as follows and the Commission took the following actions:

American Association for Laboratory Accreditation

Commissioner Bassett moved approval of the AALA as an accreditation entity. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Intertek Testing Services

Commissioner Kidwell moved approval of Intertek as a testing laboratory. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous.

Hurricane Test Laboratory, Inc.

Commissioner Bassett moved approval of Hurricane Test Lab as a testing laboratory. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Carson then stated the fourth item for Commission action is regarding Rule 9B-74. He stated the Committee is asking for a rule amendment workshop for Rule 9B-74 at the September Commission meeting.

Commissioner Bassett moved approval to hold a rule amendment workshop in September. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Parrino moved approval of the Committee's report. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Education Program Oversight Committee (POC) and TAC

Commissioner Browdy presented the report of the Education POC and TAC Committees. (See *Educational Technical Assistance Committee (TAC) Report August 12, 2002 Attachment.*)

Commissioner Greiner expressed appreciation for Commissioner Browdy's approach in terms of the Program Oversight Committee. He then stated it is imperative for BOAF to be involved along with the Commission.

Mr. Dixon reminded the Commission it has been created parallel to

other state agencies, stating certain protocol must be followed in dealing with those other agencies. He urged the Commission to approve the concept of the proposal from the Education POC.

Commissioner Lipka moved approval in concept of the Building Code Training Program recommendation and to direct legal staff to enter into discussions with DBPR administration for the transition of the program. Commissioner Greiner seconded the motion.

Commissioner Richardson expressed concerns regarding accessibility and dealing with a number of different boards involved. She stated she was uncertain about how to address accessibility training concerns on an ongoing basis.

Commissioner Browdy responded stating the new process envisions the marketplace developing certain courses which would be approved by independent boards. He continued stating ultimately DBPR would give credit for the courses. He further stated the Florida Building Commission could become a provider of courses created to represent what is important in accordance with the marketplace.

Commissioner Greiner expressed concern with DBPR and their ability to expedite the work to be done. He stated the industry as a whole is currently having problems with DBPR and suggested it be considered during this process.

Commissioner Shaw asked what happens to the contracts that exist currently with particular providers and also to the core curriculum that is mandated under statute.

Mr. Dixon responded the contract for the administrator for the Building Code Training Program expires at the end of August and is renewable annually. He continued stating if there are no tasks, the contract would not be renewed. He furthered stated the contractor is also involved in the development of courses so that any courses which are under development now would be due under the contract.

Mr. Long stated the Accessibility Council is working with Dr. Nutter on accessibility training and he expressed concern stating there are many courses available which have no accreditation. He continued stating there are many loose ends on the statewide level which should be resolved. He suggested there be one class available that the industry could rely upon for accessibility training.

Mr. Long then stated the accessibility representatives who are serving on the Accessibility Council were appointed by the Secretary of the Department of Community Affairs and will not have oversight or input on the accessibility training courses if the program is transferred to another agency.

Commissioner Browdy assured Mr. Long and members of the Council that there would be no transfer of appointment ability, rather, transferring the function of education training to DBPR. He continued stating all appointments by the Secretary and the Governor, both to the Florida Building Commission and the Accessibility Waiver Council would remain the same.

Chairman D'Andrea called for a vote to approve the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Bassett moved approval of the Education Program Oversight Committee's report. Commissioner Richardson seconded the motion. Vote to approve the motion was unanimous. Motion carried.

ACCESSIBILITY TAC

Commissioner Richardson presented the report of the Accessibility TAC. (See *Accessibility Technical Assistance Committee Report* Attachment.)

Commissioner Bassett moved approval of the Accessibility TAC report. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

BREAK

Mr. Richmond referenced the agenda concerning the update on the rule challenge regarding the pool alarm issue. He stated the rule challenge is currently scheduled for hearing on August 30. Mr. Richmond continued stating there had been an intervention, Mr. Mark Rodrique. He further stated there would be a more substantive update during the September meeting.

Mr. Richmond added there was an issue which did not require Commission action, declaratory statement DCA02-DEC-128, Richard Johnston, which would be deferred by agreement with the petitioner. He

continued stating a Petition to Intervene was filed on behalf of William-Scottsman, and also by GE Modular. He further stated resolution is being sought for the substantive issue and added there would be a follow up report during the September meeting.

PETITIONS FOR DECLARATORY STATEMENT

Commissioner D'Andrea directed the Commission to Mr. Blair for a review of the declaratory statement process.

Mr. Blair reviewed the Commission's Declaratory Process which was unanimously adopted in March 2002. (See *Commission's Declaratory Statement Process Attachment*.)

Mr. Richmond then began with the declaratory process and addressed the declaratory statements for action by the Commission in the following order:

DCA02-DEC-169 by Florida Extruders International, Inc. (A-1)

Mr. Richmond stated the issue involved is whether tapered wood bucks, which are less than 1 ½ inch, must extend beyond the interior face of the window, such that the full support of the frame is provided pursuant to Section 1707.4.4.2 of the Florida Building Code building volume. He continued stating the resolution stated the paragraph applies solely to wood bucks that are thicker than 1 ½ inch and that bucks that are less than 1 ½ inch do not have to extend beyond the interior face of the window.

Commissioner Wiggins moved approval of the declaratory statement as submitted. Commissioner Greiner seconded the motion.

Mr. Blair called for public comment on the issue. No one approached for public comment.

Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-170 by International Engineering Associations, Inc. (A-2)

Mr. Richmond explained the issue being whether aircraft hanger doors can be built in Florida with untested custom fabricated or assembled pursuant to the Florida Building Code. He continued the

petition cited a number of incidences and stated the Commission considered the petition and provided the component parts of the petitioner's doors have obtained local or state approval for uses in conjunction with hanger doors. He further stated the components meet the standards of the Florida Building Code with local authority having jurisdiction to permit the hanger doors.

Commissioner Browdy moved approval of the declaratory statement. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-182 by Bliss & Nytray, Inc. (A-3)

Mr. Richmond presented the petition for declaratory statement concerns whether a masonry wall is designed in accordance with the standard identified as ACI 530. He stated the height-to-length-to-width ratio indicated on Table 2107 of the Florida Building Code applies. Mr. Richmond continued stating the resolution through the Commission is the table applies to imperial design only and would not apply to engineered masonry, therefore the height-to-length-to-width ratio would not apply to the specified wall designed in accordance with ACI 530.

Commissioner Parrino moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-183 by Master Consulting Engineering Inc. (A-4)

Mr. Richmond stated the petitioner inquires whether the use of a pad, composed of concrete with continuous steel reinforcement and an innerfoam core, complies with Section 304.7 of the Florida Building Code Mechanical Volume which requires clearances from grade for equipment installed. He continued stating the Commission's conclusion on the issue was the approval of the use of the pad proposed by the petitioner is within the discretion of the building official.

Commissioner Greiner moved approval of the declaratory statement. Commissioner Calpini seconded the motion.

Commissioner Wiggins expressed concern regarding the resolution from the Commission. He stated the response is less than specific. He then asked if the lack of specificity was due to no product approval being in place.

Mr. Richmond responded stating the petition appears after the Commission action sheet in the agenda packet. He stated the issue is a situation in the Florida Building Code which requires use of that which is approved by the building official.

Commissioner Corn stated he was also concerned that the response to the petition was not properly written.

Mr. Richmond stated the report he based the response on was that the Commission moved that a four-inch thick clad-like pad is within the scope of other approved material subject to the building official's approval. He explained the Commission is limited to that response because a declaratory statement is not for the purpose of product approval and in the case of this petition, it requires a level concrete slab or other approved material, approved being defined in the Florida Building Code as, "...that which is approved by the local building official or other authority having jurisdiction."

Commissioner Bassett stated the particular paragraph under discussion is currently awaiting Code amendment and asked how the declaratory statement would be effected after the amendment is issued.

Mr. Richmond replied several of the issues involved in the declaratory statements are the subjects of Code amendments pending and stated it does not effect the validity of the declaratory statement as it declares and interprets the Code as it exists. He continued stating the amendments would have an effect of future interpretations once it goes into effect.

Commissioner Shaw added for clarification and procedural accuracy, a declaratory statement has been issued in which the Commission acknowledges the product meets the criteria and is sent to the building official for his approval. He continued stating if the building official then decides not to approve the product and the contractor elects to appeal the building official's decision, and the appeal comes back to the Commission, the Commission would then rely on the language in the declaratory statement. Commissioner Shaw asked if the declaratory is essentially making a recommendation to the building official to approve the product.

Mr. Richmond responded the Commission is leaving it to the discretion of the building official to approve the product.

Vote to approve the motion was unanimous.

DCA02-DEC-138 by Bellsouth Telecommunications (A-5)

Mr. Richmond stated the issue concerns the standards to apply for equivalent fire protection for telecommunications spaces located within telecommunications buildings. He continued stating the Commission is given statutory authority jointly with the state fire marshal to prescribe a standard compliance of which would exempt those spaces from sprinklering requirements. Mr. Richmond further stated at the last Commission meeting, the Commission moved to recommend the following criteria as an equivalent fire protection standard for use in telecommunications spaces located within telecommunications buildings: a) certify the building for immediate fire department dispatch on any fire alarm; b) provide a minimum one hour fire rating for all walls and doors and a minimum two hour fire rating for all ceiling and floor assembly; c) provide automatic smoke detection; d) provide for an early warning fire protection; e) provide an automatic smoke exhaust system; and f) all other portions ancillary to the telecommunications equipment spaces shall be provided with fire sprinkler protection. Mr. Richmond stated since the Commission moved those criteria as a standard, the statute directs the Commission to adopt a standard, which must be accomplished through rule making. He further stated the Fire TAC has discussed an amendment on this issue and it will be coming before the Commission in October.

Mr. Richmond then recommended denial of the declaratory statement because it would be a broad statement of general policy, which cannot be entertained by the Commission.

Commissioner Bassett moved approval of the draft response which denies the declaratory statement. Commissioner Browdy seconded the motion.

Commissioner Wiggins referenced page three of the declaratory statement and asked if the standard cited is going forward or if it is being developed.

Mr. Richmond stated the standard is going forward through the Building Code process and should be developed in conjunction through the fire marshal's process.

Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-176 by Larry Banks (A-6)

Mr. Richmond explained the petitioner requests whether the Florida Building Code requires air handlers located on a wooden framed platform in a garage to be protected with wheel stops or metal pipes to prevent a car from hitting the air handler. He continued stating the Commission's recommendation was Section 304.4 of the mechanical code requires elevation of appliances in garages unless other protection is provided, leaving the building official the authority to determine if the protection is sufficient.

Commissioner Bassett moved approval of the declaratory statement. Commissioner Wiggins seconded the motion.

Commissioner Shaw stated Section 304.4 was addressed in a Code amendment and the only provision the building official currently has is a DOT regulation on commercial garages. He explained some jurisdictions are requiring that the level of protection required is a four-inch post drilled three feet into the ground. He then asked if the declaratory statement helps the petitioner in determining the requirement for garage protection, or if it placed the building official in a position of having to base decisions on commercial garages.

Mr. Richmond responded the building official is not being referred to commercial applications. He continued stating if the building official elected to enforce the commercial applications as the only viable option, it could be viewed as overkill.

Vote to approve the motion resulted in 12 in favor and 3 opposed. Motion carried.

DCA02-DEC-177 by Larry Banks (A-7)

Mr. Richmond explained the petitioner requests the Building Commission to determine whether the Florida Building Code requires mechanical ventilation of a garage in a single family residence. He continued stating 401.2 of the Building Code requires ventilation of occupied space by natural or mechanical means; 402.1 allow natural ventilation to occur through doors; and 402.2 states the minimum openable area to the outdoors shall be four percent of the area being ventilated. He further stated the Commission concluded if the subject garage door and the petitioner's project opens to the outdoors and has minimum openable area that exceeds four percent of the floor area being

ventilated, then no mechanical venting is required.

Public Comment

Mike Fisher, Window and Door Manufacturer's Association

Mr. Fisher stated there's no reference to any openings which might also be in the garage that could provide natural sources of ventilation such as a window. He asked if a window could also be used.

Mr. Richmond responded the petition specifically references a garage door opening.

Commissioner Bassett moved approval of the declaratory statement. Commissioner Greiner seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-178 by Larry Banks (A-8)

Mr. Richmond stated the petitioner seeks clarification regarding whether 601.4 of the mechanical code applies to bathrooms, laundry rooms, and storage closets regarding balanced return air. He continued stating the Commission moved Section 601.4 of the mechanical code be clarified that air from bathrooms and laundry rooms, with a high moisture content and objectionable odors, should not be recirculated and should not have to demonstrate balanced return air, and the closets without supply ducts need not have return air. Mr. Richmond added the Commission moved that a section of the Code be clarified and stated he was unable to draft a response.

Wiggins moved for staff/legal to draft a response with a result that balanced return air should or should not be required under the Code. Calpini seconded the motion.

Mr. Blair asked for clarification regarding the specific direction Mr. Richmond was seeking in order to draft a declaratory statement. He then suggested the Commission submit a recommendation to Mr. Richmond to take back with him to staff.

Commissioner Wiggins clarified his direction to Mr. Richmond stating the odors should not be recirculated and should not have to demonstrate balanced return air, and that closets without supply ducts need not have a return.

Vote to approve the motion resulted in one opposed (Corn). Motion carried.

DCA02-DEC-179 by Larry Banks (A-9)

Mr. Richmond stated the issue presented is whether Section 403.3 of the mechanical code requires ventilation of a home. He continued stating the Commission moved that Section 403.3 of the mechanical code may be met by compliance with 403.5 * 62, which provides .35 air change per hour rate for residential living spaces is normally satisfied by infiltration and natural ventilation. Mr. Richmond expressed concern regarding the compliance with the direction for mechanical ventilation using the cross reference to a referenced standard stating natural ventilation can suffice. He then asked for direction from the Commission to take the issue back to staff and develop the rationale.

Commissioner Wiggins moved to direct legal to draft the appropriate declaratory statement reflecting the Commission action under tab A-9 which states that Section 403.3 of the mechanical code may be met by compliance with Section 403.5*62. Commissioner McCombs seconded the motion.

Commissioner Bassett noted another section in the mechanical code adjacent to the table on ventilation requirements which states, in lieu of the table *62 could be utilized. He suggested that section be included in the recommendation.

Commissioner Shaw asked if *62 takes into consideration the unusually tight construction required under the Florida energy code.

Mr. Modani offered clarification stating the garage issue had already been addressed under declaratory statement 177 using the natural ventilation option in the response. Mr. Modani suggested the same rationale be used in this issue.

Commissioner Shaw then expressed concern regarding appliances which could create a hazard if unusually tight construction does not provide for the infiltration. He suggested that be investigated for adequate ventilation.

Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-131 by Pinellas County (A-10)

Mr. Richmond stated the petition refers to elevation and sources of ignition on an electric water heater installed in the garage. He continued stating at the last meeting the reported action by the Commission was that 502.2 of the plumbing code, as well as the relevant section of the mechanical code be made consistent with the action taken by the Commission to require appliances located in garages to be installed per manufacturer's recommendations during the current glitch fix cycle. Mr. Richmond further stated the interpretation for purposes of declaratory statement 131 requires that it be taken through the glitch fix cycle. He then called for a motion that the declaratory statement be referred back to the Plumbing TAC or the Mechanical TAC in September for refinement.

Commissioner Shaw stated this issue has been addressed by the Commission. He reminded the Commission there is Commission action which indicated that appliances would be installed according to manufacturer's specifications. He continued stating the delay in the implementation of declaratory statement 131 could create instances where installations would be required that would not be necessary. Commissioner Shaw stated he would like to see a declaratory statement prepared for reading during the next meeting.

Mr. Richmond offered clarification stating a declaratory statement could be prepared for the Commission following the TAC meeting, however, he reminded the Commission that the report of Commission action was that the issue be referred for resolution through the glitch fix cycle. He agreed there was the perception that the Commission recommended something different but the written report indicates that the Code amendment be solved.

Commissioner Bassett stated there was considerable discussion on the issue in the Mechanical TAC on Monday. He continued stating it was brought to the Committee's attention that no manufacturer's installation instructions address the fact that the appliances may be located in a garage where there is the potential for gasoline spills. He further stated gasoline fumes is one of the reasons for the eighteen inch mounting requirements. Commissioner Bassett suggested the Mechanical TAC may not be prepared to make the necessary modification made by the Plumbing TAC. He then expressed it may not be appropriate to issue a declaratory statement at this time.

Commissioner Shaw stated this issue was discussed last year by the Commission and resulted in concluding if the manufacturer feels there is a hazard, then they would post a warning or hazard label on the product. He

then moved for legal to prepare a declaratory statement which would be presented to the Commission during the September meeting following the TAC's review. Commissioner Wiggins seconded the motion.

Vote to approve the motion was opposed (Bassett). Motion carried.

DCA02-DEC-173 by Florida Power and Light (A-11)

Mr. Richmond explained the petitioner asks for clarification of Section 13.610.1.A.1 in terms of the identity of a state approved performance tester. He stated the Commission's prior action was that Class 1 Building Energy Rating System Raters may serve as the state approved performance testers required under Section 13 of the Code.

Commissioner Bassett moved approval of the declaratory statement. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-175 by Florida Power and Light (A-12)

Mr. Richmond stated the petitioner is asking for clarification of Section 13.610.1.A.1 of the Florida Building Code regarding the definition of a total duct system, which pertains to total duct system leakage. He continued stating the Commission reach resolution stating the total duct system leakage includes all duct leakage to unconditioned space.

Commissioner Bassett moved approval of the declaratory statement. Commissioner Wiggins seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-171 by Leon County Community Development,
Department of Growth and Environment

Withdrawn

DCA02-DEC-142 by DASMA Inc. (A-14)

Mr. Richmond explained the issue presented is whether testing in a manufacturer's in-house facility is acceptable under the Florida Building Code. He specified testing of garage doors at a manufacturer's facility is permissible pursuant to rule 9B-72. Mr. Richmond stated the Commission recommended certification of independence be required by

rule 72.110 subsection 1, and is applicable to a testing laboratory, which can also be the entity issuing the test report demonstrating compliance with the standards specified in the Code. He continued stating if the testing lab is not the entity issuing the test report, the lab is not required to meet criteria for certification of independence, meaning the testing lab could then be a manufacturer's in-house facility.

Commissioner Wiggins moved approval of the declaratory statement. Commission McCombs seconded the motion.

Commissioner Wiggins noted a clarification on page two of the declaratory statement, recommending further clarification of the term "that which."

Mr. Richmond offered clarification wordsmithing the statement which will be implemented for final recording.

Mr. Dixon added testing laboratories are accredited in order to determine that their equipment is properly maintained and their test set-ups are competent to the standards that the accreditation is specific to, and that their personnel is trained and competent. He stated there is no problem with conducting a test in a manufacturer's facility as long as the same standards of equipment and personnel capabilities are certified by the entity issuing the certification report.

Commissioner Corn stated the entity being discussed is the entity conducting the test, but it is not the entity which will be issuing the report stating the product is in compliance with the Code. He suggested further clarification is necessary.

Commissioner Parrino stated the language in the declaratory statement is correct. He explained the language ensures the entity performing the test is not solely issuing Code compliance or an evaluation report. He continued stating the purpose of the additional layer is for the protection of the public.

Vote to approve the motion resulted in 1 opposed (Corn). Motion carried.

DCA02-DEC-166 by Florida Building Materials Association (A-15)

Mr. Richmond stated the petitioner is asking whether door components can be interchanged in exterior door assemblies provided that the door components provide equal or greater structural performance

as demonstrated by accepted engineering practices. He stated the second question asks whether door hardware can be interchanged as long as it is the same grade and provides equal or greater performance. He explained the Commission's action report cites Section 103.7.1 of the Florida Building Code giving the local building official the authority to approve the alternate materials which provide equal or greater structural performance as demonstrated by accepted engineering practices for use throughout that jurisdiction. Mr. Richmond then stated the resolution concerning the interchanging of components was not reached therefore prohibiting him from completing the draft of the declaratory statement.

Chairman D'Andrea requested clarification regarding the motion to be entered from the Commission.

Mr. Richmond requested direction from the Commission in terms of how the points relate to the two questions submitted.

Chairman D'Andrea recommended the language for the motion. He stated there could be a motion to utilize the first two items under Commission action regarding the building official to approve alternate materials which provide equal or greater structural performance and also to approve project specific which provide equal or greater performance for a specific project.

Public Comment

Ted Verman, Miami-Dade County Building Code Compliance

Mr. Verman stated the hardware grade does not apply to the structural integrity.

Carrie Hebrank, Florida Building Materials Association

Ms. Hebrank offered comment stating the original declaratory statement dealt with tested components that could be interchanged, which also relates to the hardware in terms of providing the same grade. She suggested referencing Section 1707.4.4.1 dealing with anchoring requirements allowing substitute anchoring systems used for substrates not specified by a finish stration manufacturer.

Mr. Richmond added for clarification the issue would be deferred to the discretion of the building official under Section 103.7.1.

Commissioner Parrino requested clarification from legal in terms of requesting further direction from the Commission.

Mr. Modani responded stating the printout does not reflect what the TAC and the Commission voted on at the last meeting. He referenced the July Commission meeting minutes, specifically the Structural TAC report, which submitted recommendations on the declaratory statement and were approved by the Commission.

Commissioner Wiggins moved approval to direct legal to refer to the Structural TAC report in the July Commission meeting minutes package to draft a declaratory statement response specifically tailored to committee action. Commissioner Calpini seconded the motion. Vote to approve the motion was unanimous.

DCA02-DEC-167 by Florida Building Materials Association (A-16)

Mr. Richmond stated the issue presented is whether rational or comparative analysis by a registered professional engineer is sufficient to demonstrate compliance with requirements of the Florida Building Code for one-of-a-kind custom designed 3' X 10' mahogany entrance doors for a residence, in which all the components have been evaluated in accordance with the applicable law and found to comply with the Florida Building Code for the use intended. He explained the Commission's recommendation was the entrance door can meet the Code requirements through compliance with one of the following options: 1) that 553.842 subsection 11 gives local building official authority to accept custom fabricated or assembled doors using rational engineering analysis provided the component parts have been approved at the local or state level for fabricated or assembled products used and the components meet the standards and requirements of the Code; or 2) 103.7 which gives the local building official authority to approve custom doors which are designed using rational engineering analysis.

Commissioner Parrino moved approval of the declaratory statement. Commissioner McCombs seconded the motion.

Commissioner Wiggins referenced page three of the declaratory statement requesting clarification for the use of the terms "based upon approval at the state level."

Mr. Richmond responded stating the statement is sufficient the way it is written concerning the product approval system and when it goes into

effect.

Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-128 by Richard Johnston (A-17)

Deferred.

DCA02-DEC-180 by Florida Portable Building Manufacturers Association (A-18)

Mr. Richmond stated the issue presented concerns four questions regarding portable buildings. He explained a legal analysis was discussed during the POC meeting pertaining specifically to manufactured buildings. He stated the Florida Legislature applied the requirements of the Florida Building Code to manufactured buildings, specifically lawn storage sheds which the Commission addressed two years ago. Mr. Richmond stated the answers to the questions posed would be the Department of Community Affairs is the entity authorized to enforce the Florida Building Code with respect to manufactured buildings.

Public Comment

Kevin Crowley, Florida Portable Building Manufacturers Association

Mr. Crowley stated the declaratory statement is well done in terms of establishing the facts and the conclusions of law. He continued stating page two of the statement identifies the four elements involved. Mr. Crowley suggested adding a final paragraph summarizing all of what is contained in the declaratory statement. He then recited how the paragraph should read. (See *Before the Florida Building Commission DCA02-DEC-180 Amended Petition for Declaratory Statement by the Florida Portable Building Manufacturers Association Attachment.*)

Commissioner Parrino asked Mr. Richmond his opinion of the modifications to the declaratory statement by the petitioner.

Mr. Richmond responded stating the issue is terminology. He stated the petitioner's modifications do not substantially impact what the statement declares. He noted the petitioner's wording may answer the questions more directly.

Commissioner Wiggins suggested the declaratory statement go back

to the Ad Hoc for further review and recommendation.

Commissioner Kidwell stated the synopsis presented provides additional clarity and doesn't appear to pose a problem in terms of the intent of the declaratory statement.

Commissioner Parrino expressed objection to rewording declaratory statements at the last minute. He stated it is not necessary to send the statement back to committee. Commissioner Parrino furthered that legal has presented a declaratory statement which adequately addresses the questions posed by the petitioner.

Mr. Richmond added the declaratory statement was submitted on time but did not go to the POC in July. He stated the four questions were submitted with the petition and it was his opinion the questions were answered in the original draft. Mr. Richmond explained the reason for the two meeting process is to allow for amendments at the second meeting when necessary to allow for clarifications or substantive changes based on further review by the Commission.

Commissioner Corn stated the clarifications submitted are fine and they do not change the intent of the statement. He furthered a summary at the end of every declaratory statement approved may make it easier for laymen to understand.

Commissioner Wiggins noted concerns with the language for C and D. He stated both items are awkwardly worded and difficult to understand.

Commissioner Calpini expressed agreement with Commissioner Parrino concerning last minute changes. He then stated the Commission should move forward quickly when dealing with second hearings. Commissioner Calpini suggested legal review the formatting process of the declaratory statements and as long as it is within statutory provisions to consider providing guidance to the potential petitioner to word their requests in a way that would result in a yes or no response from the Commission with appropriate rationale.

Commissioner Carson moved approval of the declaratory statement with the additional paragraph 12. Commissioner Corn seconded the motion. Vote to approve the motion resulted in 13 in favor and 1 opposed (Wiggins). Motion carried.

Mr. Richmond noted the following declaratory statements were withdrawn:

DCA02-DEC-062, DCA02-DEC-124, DCA02-DEC-162, DCA02-DEC-171, DCA02-DEC-174, DCA02-DEC-188

Mr. Richmond then noted the following first hearing declaratory statements were withdrawn:

DCA02-DEC-191, DCA02-DEC-203, DCA02-DEC-207

Mr. Richmond presented the first hearing declaratory statements as follows:

DCA02-DEC-208 by City of New Port Richey (B-4)

Deferred.

DCA02-DEC-213 by Kevin Connelly (B-5)

Deferred.

DCA02-DEC-190 by Allied Universal Corporation (B-6)

Mr. Modani stated the issue presented deals with a bleach storage tank which the petitioner has requested be exempt from the Florida Building Code Table 308.2D. He explained the TAC action cited no conflict between the DEP rule and the Florida Building Code leaving the Code applicable with the tank required to meet Florida Building Code Table 308.2D.

Commissioner Greiner moved approval of the TAC recommendation concerning the declaratory statement. Commissioner Carson seconded the motion. Vote to approve the motion was unanimous.

DCA02-DEC-206 by Philip J. Childs (B-7)

Mr. Modani stated the declaratory statement was considered by the TAC, which deferred it for additional information.

DCA02-DEC-204

Withdrawn.

DCA02-DEC-188

Withdrawn.

DCA02-DEC-205 by Herrell Plumbing Inc. (B-10)

Commissioner Shaw disclosed he is the owner of Herrell Plumbing Inc. and stated the request has been submitted by one of his directors at the urging of the Seminole County plumbing official.

Mr. Modani stated the petitioner is requesting whether the intent of 305.6 of the plumbing code requires freezer protection for a project located in Seminole County. He explained the TAC determined a project in Seminole County would not require pipes located in the attic to be protected from freezing.

Commissioner Greiner moved approval of the TAC recommendation. Commissioner Corn seconded the motion. Vote to approve the motion was unanimous. Motion carried.

DCA02-DEC-215 by T-Drill Industries Inc. (B-11)

Mr. Modani stated the petitioner is asking whether the intent of Section 605.6 of the plumbing code to allow the use of mechanically formed T- fitting. He stated the TAC determined the Code does allow the use of mechanically formed fittings within the limitation of Section 605.6.1.

Commissioner Shaw stated this particular procedure was included in the 1994 SBCCI Code and was inadvertently omitted from the 1997 code which was adopted. He noted it is included in the 2000 code.

Commissioner Wiggins moved approval of the declaratory statement. Commissioner Kidwell seconded the motion.

Mr. Richmond added 103.7, which has been referenced, allows the building official discretion to determine whether the fittings are allowable.

Vote to approve the motion was unanimous.

Mr. Blair requested a motion from the Commission to publish the TAC recommendations on the proposed Code amendments on the Building Code Information System, allowing the 45-day window for public comment

and review, and for the Commission's consideration of those same amendments at the October 2002 Commission meeting.

Commissioner Parrino moved approval to publish the TAC recommendations on the Building Code Information System. Commissioner Calpini seconded the motion.

Commissioner Shaw asked how the Code amendments without a TAC recommendation would be addressed.

Mr. Richmond responded any inability to reach consensus would be recommended that the Commission not adopt the amendment.

Commissioner Greiner asked if the Commission could address those items based on the public comment in the next 45 days.

Mr. Richmond replied the Commission is obligated to consider those which go forward through the TAC process.

Vote to approve the motion was unanimous.

REPORT ON COMMISSION / BOAF PROJECT TO DEVELOP NON-BINDING CODE INTERPRETATION PROCESS AND TO DEVELOP FORMS FOR PRIVATE INSPECTIONS

Chairman D'Andrea directed the Commission to Mr. Hilton representing the Building Officials Association of Florida.

Mr. Hilton presented a report on the Non-binding, Informal Code Interpretations. (See *Informal Interpretation Report Number 1954* Attachment.) Mr. Hilton then directed the Commission to Mr. Spooner for a slide presentation demonstrating the on-line process for the interpretation process.

Commissioner Richardson asked how clarification requests in terms of the accessibility code are addressed.

Mr. Hilton responded a committee of individuals with accessibility knowledge is being developed and Mr. Mellick has agreed to serve.

Commissioner Wiggins recommended it be required that every question submitted invite a yes or no answer to reduce research time and

provide better accuracy.

Mr. Dixon stated in the process just described the requests which are nonvalid or not specific to a Code section would be sent back.

Commissioner Parrino expressed concern regarding the non-binding interpretation process turning into a product endorsement process.

PUBLIC COMMENT

Jack Glenn, Florida Home Builders Association

Mr. Glenn expressed appreciation to the Commission and staff for the way the Code amendment changes have been made available to the public. He stated it appears the Commission is now moving in a positive direction toward a much better Code.

Jack Gartner, President, Gartner Group

(Tape has static. Part of Mr. Gartner's comments were garbled.) He stated he was seeking clarification and enforcement of Section 1805 and 1806 of the Florida Building Code which deals with piling.

James Alexander

Mr. Alexander addressed the Commission concerning Section 1805 regarding piles, and Section 1806 regarding capacities. He stated there are failures in the industry occurring in terms of driving and installing pilings, bearing capacities, and substandard pilings.

Mr. Gartner then added they would like to become involved in the training process or review the training methodology at no cost to the Commission.

Commissioner Wiggins requested the speakers' concerns be put in writing for training purposes.

Mr. Dixon suggested a letter be sent to the Chairman.

Ron Schroeder, Tri-Adine Safety Systems

Mr. Schroeder stated he attended the informal meeting of the industry representatives and the Plumbing TAC regarding Section

424.6.6. (See *Tri-Adine Safety Systems Public Comment Attachment.*)

Paul Roth, Representing Mesh Safety Barrier Companies

Mr. Roth offered comment concerning a modification concerning the definition or description of a mesh safety barrier. (See 424.2.2 *Definitions MESH SAFETY BARRIER Attachment.*)

Commissioner Greiner asked if the modification would be considered a comment on the original definition and if the issue could be addressed at the October meeting.

Mr. Richmond responded the Building Code Information System is set up to accept comments and in that vein, would come before the Commission with a TAC recommendation and subject to the Commission's review.

Chairman D'Andrea offered clarification to the speaker stating he needed to submit his comments through the Code Information System so it will come back before the Commission for consideration.

Ted Burman, Miami Dade County Building Official

Mr. Burman expressed concern regarding the product approval process. He expressed concern with the process by which entities are being approved for the product approval process. He noted there is very little public information provided regarding the qualifications of the entities.

Scott Schuffler, Attorney, Representing Gene and Janet Rodriguez

Mr. Schuffler stated the Rodriguez's filed a petition for declaratory statement with the Commission last week. He noted copies were submitted by fax to each office. He explained the plight of the Rodriguez's and the possibility of them being ejected from their home because of the method of insulation installation.

Commissioner Wiggins asked if the building official's decision was appealed through a local board.

Mr. Schussler responded stating the local board had been dissolved once the Florida Building Code became effective.

Chairman D'Andrea requested clarification concerning the appropriate process for appealing when there is no local board of appeals. Open discussion ensued regarding the appeals process and other options available to the Rodriguez's.

Commissioner Parrino moved for legal to send a letter to the building department requesting an extension on the CO until the Commission can progress to the declaratory statement process. Commissioner Greiner seconded the motion.

Commissioner Wiggins stated there are many unknown facts in the case presented and it was many months ago since the situation began. He stated he would not be in support of asking a building official to extend or not extend a CO based on lack of information regarding the specific case.

Commissioner Parrino then stated a notification of request asking the building official to extend the CO would still leave the decision at the discretion of the building official.

Commissioner Greiner stated the letter indicates the case is not a declaratory statement issue, rather an appeal to circuit court. He then offered an amendment to the motion on the floor that the Commission send a letter to the building official advising him if the issue is a declaratory statement situation, it will be considered before the Commission in September.

Commissioner Wiggins offered a friendly amendment to the motion that the letter include a statement subject to there being no immediate life-threatening hazard in the building the extension would be recommended.

Commissioner Parrino accepted the friendly amendment.

Vote to approve the motion was unanimous. Motion carried.

*Dan Johnson, Chairman of the National Spa and Pool Institute,
Florida Technical Committee*

Mr. Johnson stated he has been designated by the 910 member companies of the National Spa and Pool Institute Florida as their spokesman and will be speaking before the Commission on issues in the future as they arise.

**REVIEW COMMITTEE ASSIGNMENTS AND ISSUES FOR
COMMISSION'S SEPTEMBER MEETING**

Mr. Dixon reported a meeting was held with the BOAF who provided input on the privatization forms which the commission approved. He stated a request for proposal for assistance in developing voluntary accreditation standards for building departments was also discussed.

Mr. Blair reviewed the committee assignments for the Commission's September, 2002 meeting. He stated the October Commission meeting will be held in Miami. Mr. Blair stated the meeting would be a full three-day meeting, October 28, 29, and 30, 2002.

SUMMARY AND REVIEW MEETING WORK PRODUCTS

Chairman D'Andrea offered a brief review of the meeting's work products. He stated the Commission had decided on the Chair's discussion issues and recommendations; he continued stating the Commission had decided on accessibility waiver applications; legal staff discussion issues and recommendations; and requests for declaratory statements. Chairman D'Andrea stated the Commission had decided on Fire, Accessibility, Code Administration, Mechanical, Plumbing, Electrical, Energy, Special Occupancy, and Structural TAC's reports and recommendations. He furthered the Commission had decided on Education, Product Approval, Prototype Buildings and Manufactured Buildings POC's reports and recommendations and discussed the Building Code Training Program. Chairman D'Andrea stated the Commission had heard the report on the BOAF advisory opinion project and recommendations for private inspection procedure forms, heard public comment, reviewed assignments and issues for the September meeting.

ADJOURN

No further business discussed, meeting adjourned at 1:00 pm.