



REPRESENTING
ALEX SINK
CHIEF FINANCIAL OFFICER
STATE OF FLORIDA

FILED

DEC 3 2009

Docketed by: JP

In The Matter Of:

SONIA FLORES MACHEN

Case No.: 105114-09-FM

Petition for Declaratory Statement to the
Florida Department of Financial Services.

DECLARATORY STATEMENT

THIS CAUSE came on for consideration upon the Petition for Declaratory Statement (hereinafter "Petition") from Sonia Flores Machen (hereinafter "Petitioner"), received by the Department of Financial Services, Division of State Fire Marshal (hereinafter the "Department"), on June 12, 2009. Upon consideration thereof, and being duly advised, the Chief Financial Officer, as State Fire Marshal, finds as follows:

1. The Chief Financial Officer, as State Fire Marshal, has jurisdiction over the subject matter and the party to this matter.
2. This Declaratory Statement is premised upon the assertions of fact set forth in the Petition, as clarified by the Petitioner. Any modification to those assertions of fact could alter the conclusions set forth in this Declaratory Statement. None of the assertions of fact are admitted by the Department as being true and Petitioner's questions are being answered as purely hypothetical. If any of the facts asserted by the Petitioner are untrue or materially incomplete, the conclusions of this Declaratory Statement could be significantly different.

3. If this *Background and Facts Asserted* portion of the Declaratory Statement contains various legal assertions, conclusions, and argument, these assertions, conclusions and arguments are not adopted by the Department and are not used as legal premises or authority for the conclusions of this Declaratory Statement. Instead, these assertions or argument are considered only to illustrate the manner in which Petitioner may be an affected person entitled to have the Department issue this Declaratory Statement.

BACKGROUND AND FACTS ASSERTED

4. The Petitioner is the Fire Marshal for the Miami Beach Fire Department, charged with enforcement of Rule 69A-60, *Florida Administrative Code*, the “Florida Fire Prevention Code” (hereinafter the “Code”).

5. The Declaratory Statement was requested pursuant to the provisions of Sections 120.565 and 633.01(6), *Florida Statutes*, and Rules 28.105 and 69A-60.007, *Florida Administrative Code*, which authorize a substantially affected person and an enforcement authority to seek a declaratory statement regarding an agency’s opinion as to the applicability of a statutory or rule provision as it applies to the Petitioner’s particular set of circumstances.

6. The subject of the Petition is the sprinkler requirements of transient public lodging establishments licensed by the Department of Business and Professional Regulations (hereinafter “DBPR”).

7. In furtherance of its request, the Petitioner asserts that Owners of apartment buildings are beginning to rent out units on a transient basis. Furthermore, Petitioner alleges that some owners have obtained licenses from DBPR without going through a change of occupancy process in the Building/Fire Department.

8. Petitioner argues that this conversion from apartment building occupancy to transient public lodging establishment occupancy creates a hazard to guests who unknowingly rent a room that does not comply with code requirements to the more restrictive occupancy. Petitioner provides that occupants are transients who arrive day and night, and are not familiar

with the building's existing fire protection system. In addition, Petitioner asserts that the units have cooking equipment normally found in apartment occupancies, and most do not have automatic sprinkler protection. Petitioner argues this is relevant because data obtained from the United States Fire Administration indicates that the number one cause of residential fires is cooking.

9. As the Fire Marshal in Miami Beach, Petitioner has implemented the requirement that any facility seeking a transient public lodging license from DBPR must comply with Chapter 28 of National Fire Protection Association ("NFPA") 101, which requires sprinkler protection (28.3.5.1) for all buildings regardless of number of stories, number of units, or open breezeway/enclosed corridor. It is Petitioner's position that existing nontransient apartment occupancies which convert to transient public lodging establishment occupancy must comply with Chapter 28 of NFPA 101 as a change of occupancy has occurred.

10. Petitioner argues that Section 69A-43.018 clearly states that three and four family dwellings licensed as public lodging establishments shall comply with NFPA 101-28 and 29. Therefore, according to Petitioner, it is clear that Rule 69A would also require sprinkler protection for buildings with more units. Petitioner contends that it is neither logical nor fair that a three-unit building would be required to have a sprinkler system, but a 20-unit two-story building would not be required to be equally protected.

11. Petitioner claims that others would argue that a sprinkler system is not required based on Sections 69A-43.014 and 69A-43.019, which refer the user to Section 509.215, *Florida Statutes*. Petitioner claims that this law was established in the mid-1980s to require existing lodging facilities to be retrofitted with sprinkler protection. Petitioner maintains that the criteria for sprinkler protection at the time was applicable to a building with three or more stories with interior corridors, or a high rise building for which the construction contract was let after September 30, 1983. Therefore, Petitioner maintains that this application made sense in order to avoid a hardship on owners of existing two story buildings already operating as lodging

establishments at the time the statute was adopted. The exact term in Section 509.215(1), *Florida Statutes*, is “for which the construction contract has been let.” Rule 69A-43.004(3), *Florida Statutes*, defines that phrase as the date the permit was issued to begin construction. Petitioner reasons that the verb tense (has been let) in Section 509.215(1), *Florida Statutes*, clearly applies to building owners who had already obtained a construction permit at the time the statutory provision was adopted. As a result, Petitioner contends that this statute would not apply to future projects obtaining construction permits years after the adoption of the statute.

12. Rule 69A-43.014, *Florida Administrative Code*, provides that the State Fire Marshal established a final deadline of October 1, 1994. In addition, Section 553.895(1), *Florida Statutes*, repeats the same language as Section 509.215, *Florida Statutes*, and, according to Petitioner, must remain in Florida law to establish a date that a future authority having jurisdiction cannot mandate a building owner to retrofit a building constructed in 1983 with sprinkler protection. However, Section 553.895(2), *Florida Statutes*, requires any building which is subject to Section 509.215, *Florida Statutes*, to be equipped with an automatic sprinkler system installed in compliance with the provisions of Chapter 633, *Florida Statutes*, and rules and codes adopted pursuant thereto. Petitioner contends that this phrase in Section 553.895(2), *Florida Statutes*, clearly eliminates the conflict with Section 509.215, *Florida Statutes*, and Chapter 633, *Florida Statutes*, and NFPA 101-28 for new buildings and change of occupancy after 1994.

13. Petitioner claims that others would argue that Section 553.895(2), *Florida Statutes*, exempts buildings less than three stories from the sprinkler system requirement. Section 553.895(2), *Florida Statutes*, provides that “except for single-family and two-family dwellings, any building which is of three stories or more and for which the construction contract is let after January 1, 1994, regardless of occupancy classification and including any building which is subject to FS 509.215, shall be equipped with an automatic sprinkler system . . .” Petitioner’s interpretation of this statute is not to exempt any facility, but rather to establish the

requirement for sprinkler system protection in all buildings three stories or more regardless of occupancy classification.

14. Further, Petitioner contends that this statute does not invalidate NFPA 101-28. As previously stated, it is Petitioner's contention that the second part of the statement in Section 553.895(2), *Florida Statutes*, clarifies that all buildings subject to public lodging establishment with construction contract let after January 1, 1994, would also have to be protected with a sprinkler system. Petitioner argues that this further emphasizes that the exemption of less than three stories in Section 509.215, *Florida Statutes*, was to be applied to buildings for which the construction contract HAD BEEN let at the time of the ordinance. Petitioner contends that others have also argued that Section 509.215(3), *Florida Statutes*, would apply to buildings with more than 50% usage as transient rentals. As a result, Petitioner contends that Section 509.215, *Florida Statutes*, applies to buildings, which the construction contract HAD BEEN let at the time of the ordinance and cannot be used today since the construction contract *would not have been let*.

15. Petitioner claims others would argue that a new building (or change of occupancy) licensed as a public lodging establishment today would not require a sprinkler system under Section 509.215(1), *Florida Statutes*, regardless of NFPA 101-28.3.5 requiring sprinkler protection with no exception for the number of stories.

16. Petitioner argues the rules cited attempt to try to avoid requirements which might result in unreasonable hardships, or unnecessary inconvenience, or interference with the normal use and occupancy of the building, but at the same time insist upon compliance with life safety necessary in the public interest. Therefore, Petitioner concludes it is clear that a new building must comply with NFPA 101-28 since there are no unreasonable hardships, or unnecessary inconvenience, or interference with the normal use and occupancy of the building. NFPA 101 requires existing buildings changing occupancies to comply with the sprinkler requirements of the new occupancy. Although it is more difficult and costly to retrofit an existing building,

Petitioner argues it is reasonable and necessary to require the sprinkler system in the interest of public safety.

17. Rule 69A-43.003, *Florida Administrative Code*, refers the reader to Section 509.013, *Florida Statutes*, and then to Section 509.242, *Florida Statutes*, for a list of definitions and terms defining the different public lodging facilities. These public lodging classifications under DBPR do not correspond to the occupancy classification in NFPA 101 in terms of exact definitions and number of units. An existing apartment building has a percentage of units threshold before the DBPR issues a transient public lodging license to the establishment. Therefore, it is Petitioner's interpretation to apply NFPA 101-28 and 29 after DBPR issues the license as a transient public lodging establishment.

18. Notice of receipt of the Petition herein was published in Volume 35, Number 26 of the *Florida Administrative Weekly*, on July 2, 2007. Petitioner waived the entry deadline.

QUESTIONS

19. The Petition poses the following questions, as clarified by Petitioner:

A. Is it a correct interpretation to apply the sprinkler requirements to a new two-story building that will be used and licensed as a transient public lodging establishment under FFPC-2007, NFPA 101-28.3.5?

B. Is it a correct interpretation to apply the sprinkler requirement to an existing two-story building changing the use from apartment occupancy to a transient public lodging establishment under FFPC-2007, NFPA 101-28.3.5?

C. If the answer to question B above is "yes," then does the "change of occupancy" from apartment occupancy (NFPA 101-31) occur when the license from DBPR reflects a new license for transient public lodging as opposed to non-transient?

D. Since Rule 69A-43, *Florida Administrative Code*, is the governing document for public lodging facilities, is it correct NOT to apply the sprinkler requirement to an existing two-story building licensed by DBPR as a transient public lodging establishment and operating as a

transient rental for many years, but only recently brought to the attention of the Petitioner? In other words, what standards apply to this structure, those in effect today, or those in effect when the structure was licensed?

E. Is it correct that Section 509.215(1),(2), and (3), *Florida Statutes*, applies only to a transient public lodging establishment where the construction contract has been let after September 30, 1983, at the time of adoption of the statute (meaning construction contracts after the adoption of the statute would not apply to the exception)? In other words, does Section 509.215(3), *Florida Statutes*, apply to all public lodging establishments, or is its application limited by 509.215(1) and (2), *Florida Statutes*? (Emphasis in the original)

F. Is it a correct interpretation to apply sprinkler requirements in NFPA 101-28 and 29 to a three or four unit building licensed as a public lodging establishment as stated in Rule 69A-43.018, *Florida Administrative Code*, even though the hotel occupancy requirements are designed for 17 units or more?

G. Although Chapter 633, *Florida Statutes*, exempts one and two family dwellings from the enforcement authority of the local enforcement official, does it change when said one or two family dwellings are licensed as a transient public lodging establishment? Does Rule 69A-43.018, *Florida Administrative Code*, mandate the local enforcement official to enforce the requirements as stated in NFPA 101-24 to said facilities? Rule 69A-43.018, *Florida Administrative Code*, seems to apply to a single family dwelling rented on a transient basis to a single family, is this correct?

H. Although not stated, is it the intent of Rule 69A-43.018, *Florida Administrative Code*, to apply NFPA 101, Chapter 26, Lodging or Rooming Houses, to a single family dwelling licensed as transient public lodging establishment used for renting rooms or sleeping space out to individuals not related to each other, or does NFPA 101-24 apply under these circumstances?

DISCUSSION

20. The Department, has authority pursuant to Section 120.565, Florida Statutes, to issue Declaratory Statements, and is required by the provisions of Section 633.01(6), Florida Statutes, to issue Declaratory Statements relating to the Code, when requested by a substantially affected person or a local enforcing agency. The Code is adopted by rule of the State Fire Marshal, who has final interpreting authority; however, it is enforced by the local authority having jurisdiction. The current Code became effective on December 31, 2008.

21. The Department adopted Rule Chapter 69A-43, *Florida Administrative Code*, as its “Uniform Fire Safety Standards for Transient Public Lodging Establishments, Timeshare Plans, or Timeshare Unit Facilities.”¹ The purpose of the rule chapter is to “specify measures to be used in conjunction with Sections 509.215 and 721.24, F.S., to provide a reasonable degree of public safety. . .”² The rules apply to any transient public lodging establishment as defined and licensed by DBPR under Section 509.013(4)(11), *Florida Statutes*, and any time-share unit or time-share plan as defined in Section 721.05(33)(35), *Florida Statutes*.³

22. Rule 69A-43.018, *Florida Administrative Code*, adopts NFPA 101 (2006 edition) as the uniform firesafety standards for transient public lodging establishments, “except as modified by Section 509.215, F.S.”

23. The phrase, “transient public lodging establishment” is defined in Section 509.215(4)(a)1., *Florida Statutes*, to mean “any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.” Rule 69A-43.018(2), *Florida Administrative Code*, provides that three and four family dwellings licensed as public lodging establishments must comply with NFPA 101-28 or 29, as adopted in Chapter

¹ Rule 69A-43.001, F. A. C.

² Rule 69A-43.002, F. A. C.

³ Rule 69A-43.003, F. A. C.

69A-3, F.A.C., and incorporated by reference therein.”

24. The currently adopted edition of NFPA 101, Chapters 28 and 29, applicable to new and existing hotels and dormitories, are applicable to transient public lodging establishments in Florida. NFPA 101-28.3.5.1 requires that *all* buildings be “protected throughout by an approved, supervised automatic sprinkler system in accordance with 28.3.5.3.”⁴

25. The requirement that all transient public lodging establishments in Florida be protected throughout by an approved, supervised automatic sprinkler system applies when an occupancy becomes licensed by DBPR as a public lodging establishment after December 31, 2008.⁵ Transient public lodging establishments licensed before that date are governed by the statutes and codes in effect at the time of licensure.

26. Rule 69A- 43.018, *Florida Administrative Code*, applies to one and two family dwellings licensed as public lodging establishments. Except as modified by the rule, these dwellings, when used by more than one party per living unit, must comply with NFPA101-24. Three and four family dwellings licensed as public lodging establishments must comply with either NFPA 101-28 or 29.⁶

27. Section 509.215(1)-(3), Florida Statutes, provides as follows:

(1) Any:

(a) Public lodging establishment, as defined in this chapter, which is of three stories or more and for which the construction contract has been let after September 30, 1983, with interior corridors which do not have direct access from the guest area to exterior means of egress, or

(b) Building over 75 feet in height that has direct access from the guest area to exterior means of egress and for which the construction contract has been let after September 30, 1983, shall be equipped with an automatic sprinkler system installed in compliance with the provisions prescribed in the National Fire Protection Association publication NFPA No. 13 "Standards for the Installation of Sprinkler Systems." . . .

⁴ Rule 69A-43.018(2), F. A. C., “Three family and four family dwellings licensed as public lodging establishments shall comply with Chapter 28, New Hotels and Dormitories or Chapter 29, Existing Hotels and Dormitories, of NFPA 101, Life Safety Code, as adopted in Chapter 69A-3, F.A.C., and incorporated by reference therein.”

⁵ Rule 69A-43.003, F. A. C.

⁶ Rule 69A-43.018(2), F.A.C.

(2) Any public lodging establishment, as defined in this chapter, which is of three stories or more and for which the construction contract was let before October 1, 1983, shall be equipped with:

(a) A system which complies with subsection (1); or

(b) An approved sprinkler system for all interior corridors, public areas, storage rooms, closets, kitchen areas, and laundry rooms, less individual guest rooms, if the following conditions are met: . . .

(3) Notwithstanding any other provision of law to the contrary, this section applies only to those public lodging establishments in a building wherein more than 50 percent of the units in the building are advertised or held out to the public as available for transient occupancy.

28. Previously, Section 509.215(3), *Florida Statutes* (1991) read as follows:

The Division of State Fire Marshal may prescribe uniform standards for firesafety equipment for public lodging establishments for which the construction contracts were let before October 1, 1983. An entire building shall be equipped as outlined not later than October 1, 1989, except that the approved sprinkler system may be delayed by the Division of State Fire Marshal until October 1, 1991, on a schedule for complete compliance in accordance with rules to be adopted by the Division of State Fire Marshal, which schedule shall include a provision for a 1-year extension which may be granted not more than three times for any individual requesting an extension. **The entire system must be installed and operational by October 1, 1994.** (Emphasis added)

This language was repealed, and the subsections renumbered in the year 2000 by Senate Bill 1756, “repealing various statutory provisions that have become obsolete, have had their effect, have served their purpose, or have been impliedly repealed or superseded.”

29. Section 553.895(2), *Florida Statutes*, relating to building code firesafety provides:

Except for single-family and two-family dwellings, any building which is of three stories or more and for which the construction contract is let after January 1, 1994, **regardless of occupancy classification and including any building which is subject to s. 509.215**, shall be equipped with an automatic sprinkler system installed in compliance with the provisions of chapter 633 and the rules and codes adopted pursuant thereto. (Emphasis added)

30. Rule 69A-43.014, *Florida Administrative Code*, requires that all “required public lodging establishments, time share plans or time share units shall be sprinklered in accordance with Sections 509.215 and 721.24, F.S. All systems must have been installed and operational by

October 1, 1994, and the Division of the State Fire Marshal will no longer grant any extensions for delayed installations.”

31. Rule 69A-43.019(1), *Florida Statutes*, provides that “Except as modified by Section 509.215, F.S., the standards of the National Fire Protection Association, NFPA 101, the Life Safety Code, the edition as adopted and incorporated in Rule 69A-3.012, F.A.C., shall be the uniform firesafety standards for ‘public lodging establishments,’ as defined in paragraph (a) of subsection (4) of Section 509.013, F.S., which are “transient establishments,” as defined in subsection (10) of Section 509.013, F.S.” The most recently adopted edition of NFPA 101 is the 2006 edition adopted by Rule 69A-3.012, effective December 31, 2008.

32. The Petitioner argues that the provisions of Section 509.215(1)(2), *Florida Statutes*, do not apply to any public lodging establishment for which the contract had not been let on January 1, 1994. Petitioner alleges that others argue that the provisions of Section 509.215(1)(2), *Florida Statutes*, are still applicable in every way, including to structures that are built and/or licensed today as public lodging establishments. This is the correct interpretation. Section 509.215, *Florida Statutes*, applies to a “public lodging establishment,” which is a licensing category. It applies to structures that were either licensed or to be licensed as public lodging establishments, up until January 1, 1994. After that date, every “building. . . regardless of occupancy classification and including any building which is subject to s. 509.215 shall be equipped with an automatic sprinkler system installed in compliance with the provisions of chapter 633 and the rules and codes adopted pursuant thereto.” (Emphasis added)

NOW, THEREFORE, in accordance with the foregoing, and the statutes and rules cited therein, it is hereby declared that:

1. The Petitioner is a substantially affected person entitled to the issuance of this Declaratory Statement.
2. The answers to the questions posed in the Petition are as follows:

Question A: Is it a correct interpretation to apply the sprinkler requirements to a new two-story building that will be used and licensed as a transient public lodging establishment under FFPC-2007, NFPA 101-28.3.5?

Answer: Yes, Rule 69A-43, which adopts NFPA 101-28.3.5.1, (2006 edition adopted effective December 31, 2008), requires that all buildings licensed as transient public lodging establishments be protected throughout by an approved, supervised automatic sprinkler system. All buildings licensed as transient public lodging establishments after December 31, 2008, must meet the requirement. This requirement is not modified by Section 509.215, *Florida Statutes*.

Question B: Is it a correct interpretation to apply the sprinkler requirement to an existing two-story building changing the use from apartment occupancy to a transient public lodging establishment under FFPC-2007, NFPA 101-28.3.5?

Answer: Yes, Rule 69A-43.003, *Florida Administrative Code*, which adopts NFPA 101, states that it applies when a structure becomes licensed as a transient public lodging establishment by DBPR. If the change of occupancy occurred after December 31, 2008, the structure must meet the requirement. This requirement is not modified by Section 509.215, *Florida Statutes*.

Question C: If the answer to question B above is “yes,” then does the “change of occupancy” from apartment occupancy (NFPA 101-31) occur when the license from DBPR reflects a new license for transient public lodging as opposed to non-transient?

Answer: Yes. The change of occupancy occurs when a transient public lodging establishment license is issued by DBPR.

Question D: Since Rule 69A-43, *Florida Administrative Code*, is the governing document for public lodging facilities, is it correct NOT to apply the sprinkler requirement to an existing two-story building licensed by DBPR as a transient public lodging establishment and operating as a transient rental subsequent to 1983, but only recently brought to the attention of the Petitioner? (Emphasis in the original) In other words, what standards apply to this structure,

those in effect today, those in effect when the structure was licensed, or those in effect when the structure was built?

Answer: Every transient public lodging establishment licensed or permitted for that purpose prior to January 1, 1994, must meet the requirement of Section 509.215(1)(2), *Florida Statutes*. Any structure licensed after that date as a transient public lodging establishment must meet the standards adopted in Chapter 633, *Florida Statutes*, as well as the NFPA standards adopted in Rule 69A-43, *Florida Administrative Code*, in effect when the occupancy was licensed by DBPR. This requirement is not modified by Section 509.215, *Florida Statutes*.

Question E: Is it correct that Section 509.215(1),(2), and (3), *Florida Statutes*, applies only to a transient public lodging establishment where the construction contract has been let after September 30, 1983, at the time of adoption of the statute (meaning construction contracts after the adoption of the statute would not apply to the exception)?

Answer: Section 509.215(1)(2), *Florida Statutes*, applies to public lodging establishments that were licensed or permitted for that purpose prior to January 1, 1994. All buildings that do not fall within those parameters are required to meet Chapter 633, *Florida Statutes*, and the applicable rules promulgated pursuant thereto.

Question F: Is it a correct interpretation to apply sprinkler requirements in NFPA 101-28 and 29 to a three or four unit building licensed as a public lodging establishment as stated in Rule 69A-43.018, *Florida Administrative Code*, even though the hotel occupancy requirements are designed for 17 units or more?

Answer: Yes, Rule 69A-43.018(2), *Florida Administrative Code*, specifically states that three and four family dwellings licensed as public lodging establishments must comply with NFPA 101, either Chapter 28, "New Hotels and Dormitories" or Chapter 29, "Existing Hotels and Dormitories."

Question G: Although Chapter 633, *Florida Statutes*, exempts one and two family dwellings from the enforcement authority of the local enforcement agency, does it change when

said one or two family dwelling is licensed as a transient public lodging establishment? Does Rule 69A-43.018, *Florida Administrative Code*, mandate the local enforcement agencies to enforce the requirements as stated in NFPA 101-24 to said facilities? Rule 69A-43.018, *Florida Administrative Code*, seems to apply to a single family dwelling rented on a transient basis to a single family, is this correct?

Answer: Yes. When one and two family dwellings change their occupancy to that of transient public lodging establishments, they are subject to Rule 69A-43.018(1), *Florida Statutes*, which provides that one and two family dwellings licensed as public lodging establishments shall comply with Chapter 24, "One-Family and Two-Family Dwellings," of NFPA 101, Life Safety Code, as adopted in Chapter 69A-3, F.A.C., and incorporated by reference therein. The rule is to be enforced by the local enforcement agency.

Question H: Although not stated, is it the intent of Rule 69A-43.018, *Florida Administrative Code*, to apply NFPA 101, Chapter 26, "Lodging or Rooming Houses," to a single family dwelling licensed as transient public lodging establishment used for renting rooms or sleeping space out to individuals not related to each other, or does NFPA 101-24 apply under these circumstances?

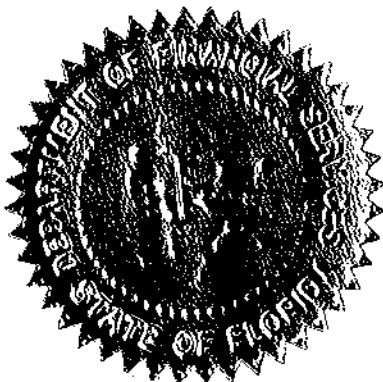
Answer: Rule 69A-43.018(1), *Florida Statutes*, clearly states that single family dwellings licensed as public lodging establishments must comply with NFPA-101.24, "One-Family and Two-Family Dwellings."

NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Declaratory Statement is entitled to seek review of this Declaratory Statement pursuant to Rule 9.110, *Florida Rules of Appellate Procedure*, because pursuant to Section 120.565, *Florida Statutes*, a Declaratory Statement constitutes final agency action and is therefore subject to judicial review pursuant to Section 120.68, *Florida Statutes*. Review proceedings must be instituted by filing a petition or notice of appeal with the Tracy Beal, Agency Clerk, 612 Larson Building, Tallahassee, Florida,

and a copy of the same with the appropriate district court of appeal, within thirty days of rendition of this Declaratory Statement.

ENTERED in the City of Tallahassee, Leon County, Florida, this 3 day of December, 2009.



A handwritten signature in black ink, appearing to read "Brian London".

Brian London, Deputy Chief Financial Officer

Copies furnished to:

Sonia Machen, P.E., Fire Marshal
Miami Beach Fire Department
2300 Pinetree Drive
Miami Beach, Florida

Lesley Mendelson, Assistant General Counsel
Department of Financial Services
Division of State Fire Marshal
200 East Gaines Street
Tallahassee, Florida 32399-0340