



DEPARTMENT OF FINANCIAL SERVICES

TOM GALLAGHER
CHIEF FINANCIAL OFFICER
State Fire Marshal

In re the Matter of

STEPHANIE MURRAY,
Petitioner

Case No.: 75397-04-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 received on March 1, 2004, by the Department of Financial Services, hereinafter referred to as the Department, from Stephanie Murray, hereinafter referred to as Petitioner. 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 parties to this matter.

2. This Declaratory Statement is premised upon the assertions of fact set forth in the Petition for Declaratory Statement. 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 question is being answered purely as a hypothetical one. 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 the Petition for Declaratory Statement contains various legal assertions, conclusions, and arguments, those 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. Legal assertions, conclusions, and arguments 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. Petitioner asserts that:

A. Petitioner is an authority having jurisdiction and, as such, is required to enforce Rule Chapter 69A-58, Florida Administrative Code, while inspecting public schools.

B. Section 69A-58.008(9)(t)2.i., appears to provide that all stages are required to have standpipes.

QUESTIONS

5. Petitioner's question is:

Is it the intent of Section 69A-58.008(9)(t)2.i., Florida Administrative Code, to require all stages to have standpipes?

DISCUSSION

6. Section 69A-58.008(9)(t)2.i. does, in fact, appear to require all stages to have standpipes by providing: "Standpipes located on each side of the stage shall be readily accessible and kept operational at all times."

7. However, reference must be made to the context in which the quotation in Paragraph 6. is made. NFPA 101, Section 13.4.5.12., adopted in Section 69A-60.004, Florida Administrative Code, and enforceable in Rule Chapter 69A-58 by operation of Section 69A-58.010, Florida Administrative Code, provides:

13.4.5.12 Standpipes Stages over 1,000 [square feet] ... in area shall be equipped with 1½ in. (38 mm) hose lines for first aid fire fighting at each side of the stage. Hose connection shall be in accordance with NFPA 13, *Standard for the Installation of Sprinkler Systems*, unless Class II or Class III standpipes, in accordance, with NFPA 14, *Standard for the Installation of Standpipe, Private Hydrants, and Hose Systems*, are used."

NOW, THEREFORE, it is the position of the Division of State Fire Marshal of the Department of Financial Services:

Standpipes are only required on stages over 1,000 square feet¹ in accordance with NFPA 101, Section 13.4.5.12, as adopted in Section 69A-60.004, Florida Administrative Code, and included in Rule Chapter 69A-58 by operation of Section 68A-58.010, Florida Administrative Code.

¹ NFPA 101 says, "1,000 ft²;" HOWEVER, the State Fire Marshal has determined that this must be a typographical error and NFPA 101 means 1,000 square feet. A stage with 1,000 feet square would have to be at least 3 times the length of a football field plus 100 feet, or 1,000 feet, in length times 3 times the length of a football field plus 100 feet, or 1,000 feet, in width which cannot possibly be the intent of NFPA 101. On the other hand, a stage with 1,000 square feet would only require approximately two numbers multiplied by each other necessary to reach 1,000 square feet, such as 25 by 40, or 20 by 50, which is the normal size for a stage.

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 Section 120.565, Florida Statutes, and 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 General Counsel, acting as the agency clerk, at 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 at Tallahassee, Leon County, Florida, this ____ day of _____, 2004.

Karen Chandler
Deputy Chief Financial Officer

Copies furnished to:

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