



THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

TOM GALLAGHER

In re the Matter of

Earl L. Carlton,
O.I.C., Fire Engineering
Miami Dade County Fire Rescue

Case No.: 42386-01-SP

Petition for Declaratory Statement to
The Florida Department of Insurance

_____ /

DECLARATORY STATEMENT

THIS CAUSE came on for consideration upon the Petition for Declaratory Statement received on May 31, 2001, by the Department of Insurance, hereinafter referred to as the Department, from Earl L. Carlton, O.I.C., Fire Engineering Miami Dade County Fire Rescue, hereinafter referred to as Petitioner. Upon consideration thereof, and being duly advised, the Insurance Commissioner, as State Fire Marshal, finds as follows:

1. The Insurance Commissioner, 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. 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. The 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.

4. Petitioner asserts that:

- A. A local fire alarm contractor is challenging our authority to require audible and visible notification devices per NFPA 72, Section 3-2.3, based upon his understanding of State Fire Marshal [“Final Administrative Authority Interpretation”] #97-075.
- B. We require all fire alarm systems whose purpose is to sound an evacuation alarm to provide public mode notification, per Chapter 6 of NFPA 72, throughout the intended evacuation area, even when the system is not required per NFPA 101, the Life Safety Code. (Emphasis supplied).
- C. It has been our understanding for several years that this is what State Fire Marshal “Final Administrative Authority Interpretation” #97-075 intended when it stated that, “This assertion is supported in the soon to be adopted 1999 edition of NFPA 72 in Section 3-8.4.1, “Occupant Notification.”
- D. We are requesting an interpretation of the above stated code and rule so that we can be sure that our enforcement of these regulations is in keeping with the standards of the State Fire Marshal’s Office.
- E. This ruling will impact our permit review and inspection practices for all non-required fire alarm systems in our jurisdiction.

5. Petitioner requests the Department to render a Declaratory Statement on the following questions:

- A. Do the sections of NFPA 72 allow us to require complete public mode notification throughout the building or occupancy in accord with Chapter 6, thereof, for non-required systems?
- B. Can the occupant choose to provide public mode notification only in areas of his choosing in the building, such as office areas but not in the warehouse area, or only in one or two offices and not all the other spaces, or only on one wall?
- C. Must the device coverage in A. or B., above, be per the tables in Chapter 6?
- D. Can they choose to install a private mode notification system and then initiate evacuation through some other means, such as an emergency response team or fire brigade?

6. While NFPA 72, 1999 edition, is set to become effective on January 1, 2002, this response is limited to the 1993 edition and the section identified in the Petition as Section 3-2.3.

7. "Final Administrative Authority Interpretation" #97-075 is null, void, of no effect, and has no bearing on this response.

8. The circumstances described in the Petition fail to identify a specific type of occupancy, but some factors are influenced by the occupancy class.

9. The Petitioner alluded to a requirement for visual occupant notification, that the system in question is non-required and that it was being installed for the purpose of evacuation.

10. The questions are governed by Sections 633.70 and 633.701, Florida Statutes.¹

11. The dispositive factor in your question involved the assertion that the system is being installed for evacuation purposes.

NOW, THEREFORE, in response to your questions, it is the position of the Department of Insurance, Division of State Fire Marshal, that:

Question: Do these sections of NFPA 72 allow us to require complete public mode notification throughout the building or occupancy in accord with Chapter 6 for non-required systems?

Response: Yes. Section 3-2.3 of NFPA 72, 1993 edition, states: "Fire alarm systems provided for evacuation of occupants shall have one or

¹ **633.70 Jurisdiction of State Fire Marshal over alarm system contractors and certified unlimited electrical contractors.**

(1) When the State Fire Marshal, in the course of its activities pursuant to s. 633.01(2), determines that an alarm system contractor or a certified unlimited electrical contractor working with an alarm system has violated any provision of this chapter or the rules of the State Fire Marshal, the State Fire Marshal shall have jurisdiction, notwithstanding any other provision of this chapter, to order corrective action by the alarm system contractor or the certified unlimited electrical contractor to bring the alarm system into compliance with applicable standards set forth in this chapter and the rules of the State Fire Marshal.

(2) Any order issued by the State Fire Marshal shall comply with the provisions of chapter 120 and allow a reasonable time for corrective action to be completed.

(3) The Department of Business and Professional Regulation and the Electrical Contractors' Licensing Board may participate, at their discretion, but not as a party, in any proceedings relating to corrective action.

(4) The State Fire Marshal shall adopt standards, by rule, for the installation, maintenance, alteration, repair, monitoring, inspection, replacement, or servicing of fire alarms and fire alarm systems.

633.701 Requirements for fire alarm system equipment. The requirements for fire alarm system equipment are:

(1) Equipment supplied shall be approved by a nationally recognized testing laboratory, and installed in accordance with its procedures. Any testing laboratory wishing to be considered "nationally recognized" by the State Fire Marshal shall submit an application to the State Fire Marshal for certification in accordance with procedures established by the State Fire Marshal by rule. The State Fire Marshal shall consider the applicant's use of and compliance with nationally accepted testing procedures, the applicant's inspection procedures including quality control, recognition by any other state or jurisdiction, and such other criteria as are reasonably necessary to reach an informed decision.

(2) Equipment shall be installed in accordance with the applicable standards of the National Fire Protection Association and procedures approved by said testing laboratory. (Emphasis supplied).

(3) Each piece of equipment supplied shall be warranted for a period of 1 year against defects in material or operation.

(4) The fire alarm system contractor or the certified unlimited electrical contractor shall furnish the user with appropriate documentation as required by the National Fire Protection Association standards, operating instructions for all equipment installed, together with a diagram of the final installation, except where the ownership of the system remains with the contractor.

(5) All fire alarm systems required by the State Fire Marshal's rules shall be installed, serviced, tested, repaired, inspected, and improved in compliance with the provisions of the applicable standards of the National Fire Protection Association as adopted by rule.

(6) The State Fire Marshal shall promulgate specifications, by rule, regarding the information and data to be contained in the test certificate hereby required to be provided to the consumer when the fire alarm system is installed, serviced, tested, repaired, improved, or inspected. It shall be unlawful to install, service, test, repair, inspect, or improve a fire alarm system without providing the consumer with a completed test certificate.

(7) The State Fire Marshal shall promulgate by rule specifications as to the size, shape, and color and the information to be contained in the service tags hereby required to be attached to all fire alarm systems when they are installed, serviced, tested, repaired, inspected, or improved. It shall be unlawful to install, service, test, repair, inspect, or improve a fire system without attaching a completed tag, or to use a tag not meeting the specifications of the State Fire Marshal.

more notification appliances listed for the purpose on each floor of the building, so located that they shall have the characteristics for public mode described in Chapter 6.”

Question: Can the occupant choose to provide public mode notification only in areas of his choosing in the building, such as office areas but not in the warehouse area, or only in one or two offices and not all the other spaces, or only on one wall?

Response: Not as a general rule. Any fire alarm system installed by a contractor must comply with the provisions of Sections 633.70 and 633.701, Florida Statutes. Section 633.70, Florida Statutes, provides the State Fire Marshal with jurisdiction over fire alarm system contractors and the authority to adopt standards by rule. Section 633.701, Florida Statutes, establishes the requirements for fire alarm systems and states: “(2) Equipment shall be installed in accordance with the applicable standards of the National Fire Protection Association and procedures approved by said testing laboratory.” NFPA 72 was adopted by Section 4A-3.012, Florida Administrative Code.

However, partial systems which have been approved by the local authority having jurisdiction are acceptable provided the partial system provides complete coverage for an entire evacuation area.

Question: Must the device coverage in A. or B., above, be per the tables in Chapter 6?

Response: Yes. The system as required per Section 3-2.3 of NFPA 72 must be installed in accordance with Chapter 6 and, therefore, the tables listed in Chapter 6 are applicable.

Question: Can they choose to install a private mode notification system and then initiate evacuation through some other means, such as an emergency response team or fire brigade?

Response: No. Referring to the circumstances that the system is being installed for the purpose of evacuation and the specific requirements of Section 3-2.3 of NFPA 72, only the public mode would be permissible. The response to this question could be modified based on the occupancy class which was not stated in the Petition.

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 _____, 2001.

GREG GAY
Deputy Commissioner,
Treasurer and State Fire Marshal

Copies furnished to:

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