



TOM GALLAGHER  
CHIEF FINANCIAL OFFICER  
STATE FIRE MARSHAL  
STATE OF FLORIDA

In re the Matter of

Federal Fire Alarm and Security  
Systems, Inc./Bart Hill

Case No.: 82727-05-FM

Petition for Declaratory Statement to  
The Florida Department of  
Financial Services

\_\_\_\_\_ /

ORDER DISMISSING PETITION FOR DECLARATORY STATEMENT

THIS CAUSE came on for consideration upon the Petition for Declaratory Statement received on August 5, 2005, by the Department of Financial Services, hereinafter referred to as the Department, from Federal Fire Alarm and Security Systems, Inc./Bart Hill. 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 has filed a fire alarm permit application with the local fire official for one Elevator recall fire alarm system (herein referred to as System) addition to a condominium, as described in the petition.

B. Approval has been denied by the local fire official for such System.<sup>1</sup>

C. As described in the permit application for the System, the fire alarm devices necessary for the required elevator recall functions are connected to a new fire alarm control panel.

D. The new fire alarm control panel then connects to the existing fire alarm control in accordance with NFPA 72, 1999, subdivision 3-8.1 through 3-8.1.3, to function as a single fire alarm system.

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<sup>1</sup> As being required by Chapter 69A-47, Uniform Fire Safety Standards For Elevators, Florida Administrative Code, and designed in accordance with the following applicable codes within the Florida Fire Prevention Code, 2004 Edition, Section 633.022 (1)(b), Florida Statutes, Section 69A-3.012 F.A.C., NFPA 72, 1999 edition, the National Fire Alarm Code, and Chapter 69A-47 F.A.C.

E. As stated in NFPA 72-1999, subdivision A-3-8.1, “This code addresses field installations that interconnect two or more listed control units, possibly from different manufacturers, that together fulfill the requirements of this code.”

F. The local fire official refers, in a communication, to NFPA 72, 1999 edition, to subdivision 3-9.3.1 which states, “System type smoke detectors located in elevator lobbies, elevator hoistways, and elevator machine rooms used to initiate fire fighters’ service recall shall be connected to the building fire alarm system.”

G. The local fire official’s interpretation of the term “fire alarm system” is to include only one fire alarm control panel in the building.

H. This is evidenced by the local fire official’s statement in the communication, which reads, in part, “[Name of condominium] is a building in which a current updated fire alarm system is required and already exists....I ask that there be no secondary fire alarm control panel interconnected to the current fire alarm system in use.”

I. Since one fire alarm control exists in the building, he is not willing to accept another to accommodate the elevator recall functions and connect to the first as a single fire alarm system.

J. However, this arrangement is clearly addressed in NFPA 72-1999 s. 3-8.1 through s.3-8.1.3 as permissible within the code.

K. Such a system allows the petitioner to use the listed fire alarm equipment of his choosing to accommodate the elevator recall functions for the building’s owner without being restricted to the proprietary manufacturer of the existing fire alarm control.

L. Further, the fire official's development services director states that no local appeals board exists for the subject city; therefore, given that fact, the communication referred to above is the final determination of denial given by the Respondent.

M. Petitioner hereby respectfully requests a declaratory statement confirming the permissible use of interconnected fire alarm control units to achieve elevator recall functions according to the Codes referred to herein.

#### QUESTION

5. Petitioner requests to know: is a duly licensed or otherwise authorized entity allowed to install and/or specify an additional fire alarm control panel to expand the functions of an existing or proposed fire alarm system which is already comprised of at least one fire alarm control panel to expand the functions of an existing or proposed fire alarm system which is already comprised of at least one fire alarm control panel, if such additional fire alarm control panel meets the requirements of the relevant codes in the specified edition of NFPA 72, subdivision 3-8.1 through 3-8.1.3?

#### DISCUSSION

6. First, the correct edition of NFPA 72 to be used is the 2002 edition, since it was adopted effective January 1, 2004, and controls the situation described above.

7. The relevant portions of both the 1999 and the 2002 editions of NFPA 72 obviously provide an affirmative response to your question, and no analysis, explanation, interpretation, or construction is needed; therefore, a declaratory statement is not necessary to analyze, explain, interpret, or construe a code or standard adopted by the Division of State Fire Marshal.

8. In addition, a petition for declaratory statement is not the applicable or appropriate method or means by which to challenge a local fire official's ruling in the absence of any ambiguity in, or requirement for interpretation of, the code language itself, particularly in view of the lack of a local appeal process, in which case the local fire official's initial ruling becomes final.

ORDER

WHEREFORE, based on the reasons stated in paragraphs 7 and 8, the petition for declaratory statement must be, and the same herein is, dismissed.

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 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 \_\_\_\_\_, 2005.

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Karen Chandler  
Deputy Chief Financial Officer

Copies furnished to:

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