



THE TREASURER OF THE STATE OF FLORIDA
DEPARTMENT OF INSURANCE

TOM GALLAGHER

In re the Matter of

Hernando County Airport Authority

Case No.:43365-01-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 October 3, 2001, by the Department of Insurance, hereinafter referred to as the Department, from the Hernando County Airport Authority, 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:

FACTS:

- A. The petitioner is designing row hangars ("T-Hangars") for construction at the Hernando County Airport.
- B. The largest building currently under design has a total of 21,840 sq. ft. divided into 15 aircraft storage units and 2 small storage areas.
- C. The buildings are Group III, Type II (000) construction.
- D. Each aircraft storage unit will have 1365 sq. ft. and will be separated by a wall that is of the same fire rating as the exterior walls or roof, whichever is greater.
- E. Each unit will have a minimum of 48 sq. ft. of translucent roof panels for light and be limited to two overhead lights and two outlets per unit.
- F. The entire front of each unit will be either manual rolling doors or an electric, vertical bifold door.
- G. These units will be leased only for the storage of one aircraft per unit.
- H. Only unit lessees and their guests will be allowed access to the hangar areas.
- I. The hangar area will be separated from the general public by a 6' security fence and controlled gates.

- J. The lessee upon arriving to fly will enter the hangar through an egress door and will unlock and open the entire front of the leased unit, either rolling or bifold doors, to remove their aircraft.
- K. These hangars are not climate controlled nor insulated; hence, no one will be using the inside for any activity unless the aircraft door comprising the entire front of the unit is open.
- L. Local plans examiners have determined that we will need (i) 2 ea. – 2 hour fire rated walls every 12,000 sq. ft. of total hangar area per NFPA 409, 5-2.1, and (ii) that we will need 2 ea. egress doors from each unit per NFPA 101, 42.6.2.

ARGUMENT

- M. According to NFPA 409 1-3, Definitions, a fire area is defined as: “an area within an aircraft hangar subject to loss by a single fire because of lack of internal subdivisions as specified in Section 2-2 or Section 5-2 of this standard as appropriate.”
- N. Section 2-2 is for the construction of Group I and Group II hangars.
- O. We are building Group III, so Section 5 is appropriate.
- P. Section 5-2.1 does not apply because it is for the construction of single hangar buildings which are defined in 1-3 as: “a building with one area for the storage and servicing of aircraft and any attached, adjoining, or contiguous structure, such as a lean-to, shop area, or parts storage area not separated as specified in 2-3.2 or 5-2.1 of this standard as appropriate.”
- Q. Section 5-2.2 deals with the internal subdivisions/partitions of row hangars, typical configurations which are shown in figure A-1-3(b) of the standard.
- R. This section states that “row hangars shall be divided by solid partitions having a fire resistance equivalent to the exterior walls or roof whichever is greater so that no more than three aircraft spaces shall be within an enclosed area.”
- S. According to these definitions our fire areas are 1365 sq. ft.
- T. NFPA 101, Section 42.6.2, Requirements for Aircraft Storage Hangars, are interpreted as requirements for single hangar buildings.

- U. The reason is because the interval distance stated along exterior walls far exceed that which will be found in row hangars, and any exit through the common tenant walls in nested T hangars would be locked by the tenant on the opposite side.
 - V. In a row hangar used for storage only, the lessee will be opening the rolling or bifold door to facilitate removal of their aircraft or placement of their aircraft in the hangar.
 - W. Since these buildings are not open to the general public, anyone in the hangar will be intimately familiar with a single egress door.
5. Petitioner requests the Department to render a Declaratory Statement on

the following questions:

QUESTIONS:

- A. Are 2-ea. – 2 hour fire rated walls needed every 12,000 sq. ft. in row hangars, where each unit is divided by a partition having a fire resistance equivalent to that of the exterior walls or roof, whichever is greater?
- B. Are two egress doors required from each unit in row hangars as described in NFPA 101, 42.6.2?

RESPONSE:

6. The requirement for the two-hour wall is based on the maximum allowable fire area which is tied to the type of construction.

7. The type of construction is identified as Type II (000). Section 1-3.2.3 describes the typical configurations acceptable for a Group III hangar and require that such hangar meet the following two conditions:

- A. An aircraft access door height of 28 ft. or less, and
- B. A single fire area that measures up to the maximum square footage permitted for specific types of construction in accordance with Table 1-3.2.3.

8. The applicable section for maximum fire areas by construction type is Table 1-3.2.3.

9. The maximum area permitted for Type II (000) construction is 12,000 square feet.

10. While Section 5-2.2 does only require a fire resistance equivalent to that of the walls and roofs, its limitations on the number of aircraft is within an “enclosed area.”

11. An “enclosed area” is not defined and, therefore, it must be given its ordinary or common definition;¹ “fire area” is defined and the definition is different than the ordinary or common definition of “enclosed area.”

12. A “fire area” must be separated by a defined barrier with some degree of fire resistance.

13. An “enclosed area” may be separated by a fire resistive barrier or a smoke resistive barrier.

14. On the question in 5.B., above, there is no specific edition identified in the request and therefore this response is based on the 1994 edition of NFPA 101 as adopted by the Division of State Fire Marshal.

15. The appropriate section of NFPA 101 is Section 29-6.2, which contains language similar to the 2000 edition language apparently cited.

16. While the requirements of NFPA 101 do apply to this occupancy, they do not supersede the specific requirements of the design standard, which in this case is NFPA 409. The answer to the question is within NFPA 409, Section 5-1.8 which states

¹ *Powell v. State*, 508 So.2d 1307 (Fla. 1 DCA. 1987): “Although the critical words are not statutorily defined, they can be readily understood by reference to commonly accepted dictionary definitions. See *Gardner v. Johnson*, 451 So.2d 477 (Fla.1984); Miller, *The Medium is the Message: Standards of Review in Criminal Constitutional Cases in Florida*, 11 Nova Law Review 97, 124 (1986) (standard dictionary definitions are reliable sources for plain and ordinary language definitions).”

“Egress doors for personnel that do not require the opening of doors accommodating aircraft shall be provided in each partitioned space....”

17. The next issue to be determined is the classification of the content of the storage area.

18. The life safety requirements of NFPA 101, Chapter 29-1.5, requires the hazard class to be in accordance with Section 4-2.2.

19. The description of ordinary class per Section 4-2.2.3 are contents that are likely to burn with moderate rapidity or to give off a considerable volume of smoke.

20. Therefore, classed as an ordinary hazard, life safety requirements of NFPA 101, Section 29-2.4.1, Exception #2, permits a single means of egress if the travel distance thereto is within the limits of the common path of travel.

21. NFPA 101, Section, 29-2.5.3 establishes the common path of travel limit at 50 feet.

22. In conclusion, the arrangement of each aircraft storage area must provide for access to the means of egress within the travel limit of 50 linear feet determined in accordance with NFPA 101.

The conclusion is that no fire area of a Group III hangar building of Type II (000) construction may be larger than 12,000 square feet.

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

- A. Are 2-ea. – 2 hour fire rated walls needed every 12,000 sq. ft. in row hangars, where each unit is divided by a partition having a fire resistance equivalent to that of the exterior walls or roof, whichever is greater?

Response: One 2-hour wall is needed if no area is greater than 12,000 square feet for a total 21,000 square foot building; therefore, in the situation you describe, only one 2-hour wall would be needed for spaces 12,000 feet or less, for the reasons stated in Paragraphs 6 through 13.

B. Are two egress doors required from each unit in row hangars as described in NFPA 101, 42.6.2?

Response: Yes. Two means of egress are required unless the 50-foot exception applies, as indicated in Paragraphs 14 through 22.

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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