

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

ITW BUILDEX,

Case #: DCA06-DEC-282

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Bert Kolodziej, P.E., on behalf of ITW BUILDEX, (Petitioner) which was received on November 3, 2006. Based on the statements in the Petition and the material subsequently submitted, it is hereby ORDERED:

Finding of Fact

1. The petition is filed pursuant to section 120.565, Florida Statutes, and must conform to the requirements of Rule 28-105.002, Florida Administrative Code.
2. Petitioner, ITW BUILDEX, manufactures a pin called Gyp-Fast used to attach exterior sheathing to light gauge steel framing. The Petitioner applied for state product approval for this fastener in 2004, but it was denied for the following reason:

FL#2941, Fasteners other than roofing fasteners are outside the scope of the Rule.

3. The Petitioner asks whether the product, a pin called Gyp-Fast used to attach exterior sheathing to light gauge steel framing, falls within the scope of Rule 9B-72, Florida Administrative Code (F.A.C.).

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of Rule 9B-72, F.A.C., by entering a declaratory statement.

2. Rule 9B-72.005, Florida Administrative Code (F.A.C.), states:

Scope.

(1) Products in the following categories as defined by subcategories of subsection 9B-72.010(31), F.A.C., shall be available for approval by the Commission pursuant to Rule 9B-72.090, F.A.C., for use in the state:

- (a) Panel Walls;
- (b) Exterior Doors;
- (c) Roofing Products;
- (d) Skylights;
- (e) Windows;
- (f) Shutters; and
- (g) Structural components.

(2) This rule applies to approval of products and systems, which comprise the building envelope and structural frame, for compliance with the structural requirements of the Florida Building Code.

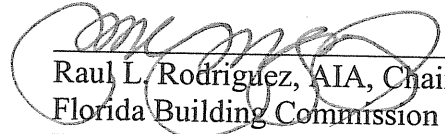
3. Petitioner's product does not fall within the scope, as identified within the foregoing rule.

4. Based on the above, the answer to the Petitioner's first question is no. Fasteners, other than roofing fasteners, are outside the scope of Rule 9B-72 F.A.C.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and with Fla. R. App. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, and with the appropriate District Court of Appeal no later than thirty (30) days after this Order is filed with the Clerk of the Commission. A Notice of Appeal

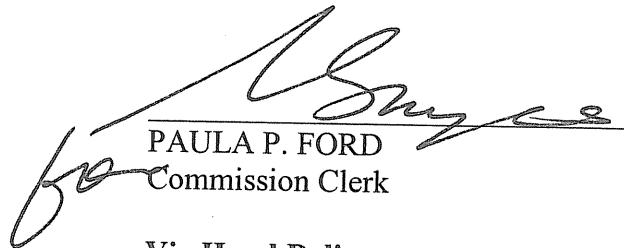
filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Florida Statutes.

DONE AND ORDERED this 16 of July, 2007, in Miami-Dade County, State of Florida.


Raul L. Rodriguez, AIA, Chair
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent to the following by the method indicated on this 17 day of July, 2007.


PAULA P. FORD
Commission Clerk

Via U.S. Mail

Bert Kolodziej, P.E.
Senior Project Engineer
ITW BUILDEX
1349 W. Bryn Mawr Avenue
Itasca, Illinois 60143

Via Hand Delivery

Mo Madani, C.B.O. Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, FL 32399-2100