

**FILED**

MAY 04 2016



**Docketed by** IMI

CHIEF FINANCIAL OFFICER  
JEFF ATWATER  
STATE OF FLORIDA

In The Matter Of:

DAVID WOODSIDE, PRESIDENT  
FLORIDA FIRE MARSHALS AND  
INSPECTORS ASSOCIATION

Case No.: 189152-16-DS

Petition for Declaratory Statement to the  
Florida Department of Financial Services

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DECLARATORY STATEMENT

THIS CAUSE came on for consideration upon receipt of a Petition for Declaratory Statement (petition) from David Woodside, President of Florida Fire Marshals and Inspectors Association (petitioner). The Department of Financial Services, Division of State Fire Marshal (Department) received the petition on March 17, 2016.

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.
2. This Declaratory Statement is premised upon the assertions of fact set forth in the petition, response, and reply. Any modifications to those assertions of fact could alter the conclusions set forth in this Declaratory Statement. None of the assertions are admitted by the Department as being true.

3. Legal assertions, conclusions, and arguments contained in the petition, if any, are not adopted by the Department, and are not used as legal premises or authority for the conclusions reached herein.

#### BACKGROUND AND FACTS ASSERTED

4. Petitioner requested this Declaratory Statement pursuant to the provisions of sections 120.565 and 633.104(a), Florida Statutes, and chapter 28-105 and Rule 69A-60.007, *Florida Administrative Code*, which authorize an Authority Having Jurisdiction (AHJ) and a substantially affected person to seek a declaratory statement providing the Department's opinion as to the applicability of the Florida Fire Prevention Code (FFPC) in certain circumstances.

5. Petitioner is the President of the Florida Fire Marshals and Inspectors Association (FFMIA). The FFMIA membership is made up of certified fire safety inspectors and fire code administrators and it is their responsibility to enforce the FFPC pursuant to section 633.118, Florida Statutes. The questions posed in this petition directly impact the membership of the FFMIA.

6. The Department published notice of receipt of the petition Volume 42, Number 59 of the *Florida Administrative Register*, on March 25, 2016.

#### QUESTIONS

7. The following questions were submitted:

1) "Does FFPC/NFPA 101 section 32.3.5.11.3 require an Engineered Life Safety System for existing high-rise apartment occupancies if the apartment occupancy is not protected throughout by an approved automatic fire sprinkler system and the occupancy does not comply with section 31.3.5.11.2?"

2) “Does FFPC/NFPA 1 section 13.3.2.26.4 exempt an existing high-rise apartment occupancy building that is not protected throughout with an approved automatic sprinkler system from providing an Engineered Life Safety System as required by FFPC/NFPA 101 31.3.5.11.3?”

3) “If the answer to questions #1 is yes, what is the deadline for an existing high-rise occupancy to comply with the provisions of FFPC/NFPA 101 section 31.3.5.11.3?”

#### STATUTES AND CODE PROVISIONS

8. The Department is authorized to issue Declaratory Statements by section 120.565, Florida Statutes. The State Fire Marshal is required by section 633.104(6), Florida Statutes, to issue Declaratory Statements when a petition is filed by a local enforcement agency or a substantially affected person, and it relates to the FFPC, which adopted the NFPA, including the Fire Code (NFPA 1) and Life Safety Code (NFPA 101).

9. Pursuant to FFPC 101:31.3.5.11.1, all high-rise buildings, other than those meeting 31.3.5.11.2 or 31.3.5.11.3, shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with 31.3.5.2.

10. Pursuant to FFPC 101:31.3.5.11.2, an automatic sprinkler system shall not be required where every dwelling unit has exterior exit access in accordance with 7.5.3.

12. Pursuant to FFPC 101:31.3.5.11.3, an automatic sprinkler system shall not be required in buildings having an approved, engineered life safety system in accordance with 31.3.5.11.4.

13. Pursuant to FFPC 101:31.3.5.11.4, where required by 31.3.5.11.3, an engineered life safety system shall be developed by a registered professional engineer experienced in fire and life safety system design, shall be approved by the AHJ, and shall include some or all of the following: partial automatic sprinkler protection, smoke detection systems, smoke control systems, compartmentation, and other approved systems.

14. Pursuant to FFPC 1:13.3.2.26.2.3, the entire building shall be required to be protected by an approved automatic sprinkler system by December 31, 2019, or comply with the requirement of FFPC 101:31.

15. Pursuant to FFPC 1:13.3.2.26.2.4, all existing high-rise apartment buildings shall be subject to the provisions of sections 718.111 and 718.112, Florida Statutes, which shall supersede the requirements for an automatic sprinkler system.

#### ANALYSIS

16. The petitioner is a substantially affected person and has standing to file this petition. The questions posed in this petition directly impact the membership of the FFMIA.

17. The answer to question 1: Yes. Existing high-rise apartment occupancies, including residential condominiums and cooperatives, that are not protected throughout by an approved automatic fire sprinkler system (FFPC 101:31.3.5.11.1), or that do not have an exterior exit access complying with FFPC 101:7.5.3 (FFPC 101:31.3.5.11.2), must complete an engineered life safety system approved by the AHJ (FFPC 101:31.3.5.11.3).

18. The answer to question 2: No. FFPC 1:13.3.2.26.4, a Florida-specific amendment, expressly restricts the requirements of automatic fire sprinkler systems to high-rise buildings utilized as residential condominiums or cooperatives pursuant to sections 718.111 and 718.112, Florida Statutes, and specifically supersedes the NFPA base code. However, FFPC 1:13.3.2.26.2.3, also a Florida-specific amendment, clarifies that, if the entire building is not protected by an approved automatic sprinkler system, it must comply with the requirements of FFPC 101:31. FFPC 101:31 requires that every dwelling unit in the existing high-rise building have either an exterior exit access for every dwelling unit in accordance to 101:7.5.3, or have an engineered life safety system approved by the AHJ pursuant to FFPC 101:31.3.5.11.3.

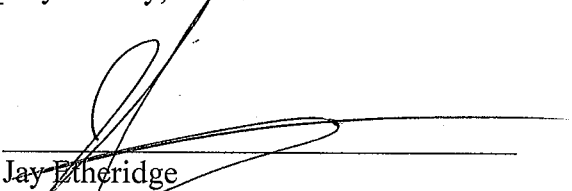
19. The answer to question 3: The deadline for an existing high-rise occupancy to comply with the provision of FFPC 101:31.3.5.11.3, the engineered life safety system, is December 31, 2019, pursuant to FFPC 1:13.3.2.26.2.3, a Florida-specific amendment, which supersedes FFPC 1:13.3.2.26.2.

### CONCLUSIONS

20. Based on the foregoing, apartment occupancy, specifically a condominium and cooperative, are exempt from installing an approved automatic fire sprinkler system if every dwelling in the occupancy has FFPC compliant exterior exit access, or if the occupancy has an engineered life safety system that is approved by the AHJ. The building is required to be protected by an approved automatic fire sprinkler system by December 31, 2019, or it must comply with the requirements of FFPC 101:31.

**DONE AND ORDERED** this 3<sup>RD</sup> day of May, 2016.



  
Jay Etheridge  
Deputy Chief Financial Officer

### NOTICE OF RIGHTS

Any party to these proceedings adversely affected by this Order is entitled to seek review within **30 days** of the rendition of this Order, pursuant to section 120.68, Florida Statutes, and Rule 9.190, *Florida Rules of Appellate Procedure*. Review proceedings must be instituted by filing a petition or notice of appeal with Julie Jones, the DFS Agency Clerk. Filing with the Agency Clerk may be accomplished via U.S. Mail, express overnight delivery, hand delivery, facsimile transmission, or electronic mail. The address for overnight delivery or hand delivery is Julie Jones, DFS Agency Clerk, Department of Financial Services, 612 Larson Building, 200 East Gaines Street, Tallahassee, Florida 32399-0390. The fax number is (850) 488-0697. The email address is [Julie.Jones@myfloridacfo.com](mailto:Julie.Jones@myfloridacfo.com).

A copy of the petition or notice of appeal must also be filed with the appropriate district court of appeal within 30 days of the rendition of this Order.

Copies Furnished:

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