



## **ORANGE COUNTY FIRE AND LIFE SAFETY CODE BOARD OF ADJUSTMENT AND APPEALS**

Orange County Fire Marshal's Office  
7079 University Boulevard, Winter Park, Florida 32792

**Meeting:** Fire & Life Safety Code Board of Adjustment & Appeal

### **Appeal Case 2019-0001 – Reserve at Vista Cay**

**Date:** August 27, 2019

**Time:** 9:00 a.m.

**Location:** Office of the Fire Marshal 7079 University Blvd Winter Park, FL 32792

**Reported by:** Stephanie Elix

- 9:00 a.m. Chair David Blossom called Appeal Case 2019-001 to order
- Chief Kilbury presented his case in regards to Vista Cay Timeshare; Chief stated that the statute is out of date; however, the challenge of the Orange County, FL Fire Marshal's office has to use the statute. First statute 509.215 – September 30, 1983, states 509.215b NFPA 13 system sprinkler apply to this case. 721.24 addresses fire safety in regards to timeshare, which also refers to NFPA 13 system. Since the statute was written in 1983 (September 30) the statute has not been updated since the existence of the 13R system.
  - “In our professional opinion, a 13R system is appropriate, however, we are to adhere to the statutes that pertain to that...we do not have the authority to grant the use of 13R at this point,” Chief Kilbury. This concluded Orange County's presentation.
- Peter Swabb Wayne Fire Automatic Sprinkler presented his case to use a 13R system—the Reserve at Vista Cay were condominiums and are now converting to timeshare. By definition, a timeshare is transitory which is similar to a hotel. Mr. Swabb recanted the reason why we are here is because of the state statute; he doesn't disagree that a 13 system is valid, however, the use of a 13R system is sufficient as a use for life safety.
  - Mr. Swabb gave an historical background on the differences of the systems; he reference the Las Vegas casino fire which then triggered the State of Florida to adopt the state statutes because the lawmakers didn't want what happened in las Vegas to happen here in Florida.
  - In 1985, there were only two sprinkler systems, 13 and 13D and NFPA codes are, generally, updated every five years; Mr. Swabb, asked “how many changes have there been since these codes have been adopted since 1985? There's only been 10



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updates since then.” He referenced the political landscape that causes delays in updating statutes. Mr. Swabb mentioned that the State wanted to get away from timeshares—statute 721.24 was created specifically for timeshares in 1990. After Hurricane Andrew, the State of Florida realized that they needed to be update their building and fire codes every five years.

- Statue 721.24 is the one that NFPA 74 1978 updated in 1998, an outdated statute. A timeshare is a **R** (residential) occupancy, the Florida Fire Prevention Code 6<sup>th</sup> edition, speaks to a transient occupancy (less than 30 days) much like hotels, timeshares that type of occupancy; timeshare(s) does not exist in the Florida Fire Prevention code. When sprinkler systems are installed for buildings that are four floors or less, a 13R system is allowed which these buildings at Vista Cay are. 13R was not available in the first edition of the Florida Fire Prevention code. Note: the State of Florida tends to adopt standards six years after the codes are written. R1/R2 are types of systems that can be used by definition—a timeshare (3A type building) would fall under a R1 system although it doesn't matter which system is used for this type of occupancy.
  - Mr. Swabb's question is “do I follow the statute of 1983 or do I follow current codes?” The building code states that it is acceptable to use a 13R system in this type of building which is a 3A. Section 461. Mr. Swabb asked the Board to approve the use of a 13R system for this type of building, “A fire doesn't know if a person is there on a week vacation or not; it's the same type of construction, the same type of building. It has been proven that these are effective systems in terms of life safety and ask that you rule in favor of us using a 13R system instead of a 13. This concluded Mr. Swabb's presentation.
    - There are two motions, one the use of a 13R system, which in Mr. Swabb's opinion is a better life safety product than its recommended 1985 edition that says to use a 13 system. On the other hand, a ruling in favor of the Orange County, FL Fire Marshal of the use of a 13 system.
- Chief Kilbury asked that there maybe a declaratory statement from the State Fire Marshal that would mimic the building code, but could take upwards to 6 months which would seriously delay the project from moving forward.
- Assistant Fire Marshal, Scott Workman, added a few things in terms of the attic and its protection and wanted to note that the use of 13R system does not protect the building if



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there happened to be a lightning strike. A building code requirement maybe needed for a sprinkled attic.

- Mr. Blossom clarified there are no sprinklers in the attic.
- Mr. Hirsch Korn asked if a 13 is sprinkled throughout vs. a 13R system.
  - Mr. Swabb noted that there has been losses across the country to the attic, but due to the use of 13R system, it has done the job that is designed to do and although the fire occurred in the attic and a drop down happened, there has been no loss of life.
- Mr. Blossom asked the performance requirements between the 13 system and a 13R. A 13 is more of a property, or complete safety system, 13 in 1985 are designed for mills and warehouses; whereas a 13R is primarily a life safety system.
  - All living spaces would be sprinkled with a 13R system and the building has concrete and not wood. The attic will only contain ductwork, electrical, PVC piping, wood.
- Mr. Hirsch Korn motioned that the Board not rule in favor of the use of a 13R system and that the developers should use a 13 system. That motion was not second. He then asked to that there would be a sprinkler system of some kind to be used in the attic for protection—that addition was not approved by the Board due to the fact that the appeal is in regards to the life safety of the occupants not the prevention of property.
- Wade Vose, Orange County Fire and Life Safety Appeal Board attorney stated that the evaluation made by the Board is a case-by-case decision, the decision could have some precedence on further decisions, and however, today's decision will be based on this case only.
- ✚ **The finding is that the adjustments are a suitable alternative and is applicable to the statues 509.215 and 721.24. The finding(s) does not resolve the level of protection to life safety or property and is applicable to the life safety standard per the Florida Fire Prevention Code(s). The motion by the Board is to approve the use of 13R Sprinkler System instead of a 13 Sprinkler System for the Reserve at Vista Cay Timeshare Project.**



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- New Business
  - Presentation on September 5, 2019 of DAS System Orange County Fire Marshal's Office, Conference Room
- Adjourned
- Next meeting will convene on October 3, 2019 at 9:00 a.m. Orange County Fire Marshal's Office, Conference Room