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Date: Saturday - March 15, 2008 10:57 PM
Subject: requirement for sprinklers at Tavern on the Island

Regarding the assignation of Mercantile versus Assembly at Tavern on the Island.

Unless I am grossly misunderstanding Reed, in an email to Marty Black, he stated that he cannot enforce the installation of sprinklers at TOTI as the establishment is rated as Mercantile versus Assembly. That has to do with the amount of square footage per person allocation, once you hit a certain level, sprinklers are required. A nightclub would normally be Assembly, but this one is Mercantile (a store).

I'll be publishing his email with some other documents soon and that will all make sense at that time.

What is troubling is that after reading the Florida Statutes, my take is that Reed is on shaky ground when he states he is powerless to enforce sprinkler installation. When I read the statutes, it appears to me that he has a legal obligation to challenge the Mercantile assignation.

Now what might this mean? Suppose there is a fire there and lives are lost. No sprinklers. Is the city civilly liable because they weren't following the law? After reading the statutes, I'm thinking that the city's ass (and Reed's particularly) is seriously hanging in the breeze.

No offense intended to Reed, so please don't feel insulted. I'm not trying to go for Reed's throat here, I just think that he might be wrong in his interpretation. This wasn't a mess of his creation, he's just been thrown into the middle and he's not a political kind of guy. That happens to him a lot lately -- the fire fees, for example, where he had to fall on a sword not of his creation.

Anyway, here's the statutes. Read them carefully and see if you think what I

am writing here is true.

Florida Building Code - Life / Fire Safety

F.S. §553.73(10)(a):

10)(a) In the event of a conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as applied to a specific project, the conflict shall be resolved by agreement between the local building code enforcement official and the local fire code enforcement official in favor of the requirement of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

553.73(10)(b) ----- Appeal of Decision

Any decision made by the local fire official and the local building official may be appealed to a local administrative board designated by the municipality, county, or special district having firesafety responsibilities. If the decision of the local fire official and the local building official is to apply the provisions of either the Florida Building Code or the Florida Fire Prevention Code and the Life Safety Code, the board may not alter the decision unless the board determines that the application of such code is not reasonable. If the decision of the local fire official and the local building official is to adopt an alternative to the codes, the local administrative board shall give due regard to the decision rendered by the local officials and may modify that decision if the administrative board adopts a better alternative, taking into consideration all relevant circumstances. In any case in which the local administrative board adopts alternatives to the decision rendered by the local fire official and the local building official, such alternatives shall provide an equivalent degree of lifesafety and an equivalent method of construction as the decision rendered by the local officials.

553.73(10)(c) ---- Local Building Official and Fire Marshall Unable to Reach Agreement

If the local building official and the local fire official are unable to agree on a resolution of the conflict between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code, the local administrative board shall resolve the conflict in favor of the code which offers the greatest degree of lifesafety or alternatives which would provide an equivalent degree of lifesafety and an equivalent method of construction.

553.73(10)(d) ----- Local Decision Subject to Review by Joint State Committee = Fire Code Advisory Council and Florida Building Commission

All decisions of the local administrative board, or if none exists, the decisions of the local building official and the local fire official, are subject to review by a joint committee composed of members of the Florida Building Commission and the Fire Code Advisory Council. If the joint

committee is unable to resolve conflicts between the codes as applied to a specific project, the matter shall be resolved pursuant to the provisions of paragraph (1)(d).

553.73(10)(f) ----- Local Decisions---- Shall Be In Writing.BUT.. Shall Not Limit Authority of State Fire Marshal or the Florida Building Commission
All decisions of the local building official and local fire official and all decisions of the administrative board shall be in writing and shall be binding upon all persons but shall not limit the authority of the State Fire Marshal or the Florida Building Commission pursuant to paragraph (1)(d) and ss. 2663.01 and 633.161. Decisions of general application shall be indexed by building and fire code sections and shall be available for inspection during normal business hours.

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