

**STATE OF FLORIDA
BOARD OF ARCHITECTURE AND INTERIOR DESIGN**

**IN RE: PETITION FOR DECLARATORY STATEMENT BY
 MIGUEL A. RODRIGUEZ**

DS 2011-001

FINAL ORDER

THIS MATTER came before the Board of Architecture and Interior Design (Board) pursuant to Section 120.565, Florida Statutes, at a duly-noticed public meeting on February 17, 2011, in Fernandina Beach, Florida, for a hearing on the Petition for Declaratory Statement filed by Miguel A. Rodriguez (Petitioner) on January 3, 2011. The notice of the petition appeared in the Florida Administrative Weekly on January 28, 2011, in Volume 37, Number 04. No comments by interested persons were received. Petitioner was present at the hearing in this matter and the Board was represented by Mary Ellen Clark, Assistant Attorney General. Having considered the petition, the Board makes the following findings and conclusions

FINDINGS OF FACT

1. Petitioner is a Florida Licensed Architect.
2. Rule 61G1-16.005, Florida Administrative Code (FAC), provides:

(1) Information stored in electronic files representing plans, specifications, plats, reports, or other documents which must be sealed under the provisions of Chapter 481, F.S., shall be signed, dated and sealed by the architect or interior designer in responsible charge.

(2) Electronic files may be signed and sealed by creating a "signature" file that contains the architect's or interior designer's name and license number, a brief overall description of the documents, and a list of the electronic files to be sealed. Each file in the list shall be identified by its file name utilizing relative Uniform Resource Locators (URL) syntax described in the Internet Architecture Board's Request for Comments (RFC) 1738, December 1994, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website:

ftp://ftp.isi.edu/in_notes/rfc1738.txt. Each file shall have an authentication code defined as an SHA-1 message digest described in Federal Information Processing Standard Publication 180-1 "Secure Hash Standard," 1995 April 17, which is hereby adopted and incorporated by reference by the Board and can be obtained from the Internet Website: <http://www.itl.nist.gov/fipspubs/fip180-1.htm>. A report shall be created that contains the architect's or interior designer's license number, a brief overall description of the documents in question and the authentication code of the signature file. This report shall be printed and manually signed, dated, and sealed by the architect or interior designer in responsible charge. The signature file is defined as sealed if its authentication code matches the authentication code on the printed, manually signed, dated and sealed report. Each electronic file listed in a sealed signature file is defined as sealed if the listed authentication code matches the file's computed authentication code.

3. Petitioner seeks the Board's interpretation of Rule 61G1-16.005, FAC, and asks the following questions:

A. May the electronic signature described in Rule 61G1-16.005(2), FAC, be used in lieu of a physical signature and impression seal required by Rule 61G1-16.001, FAC?

B. May an electronic image of the physical signature and impression seal, required by Rule 61G1-16.001, FAC, be made, included on an secured electronic portable document file (e.g., an Acrobat or .pdf file), and used to meet the requirements of Section 481.221, Florida Statutes (FS) and Rule 61G1-16.001, FAC?

CONCLUSIONS OF LAW

4. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes.

5. The Board answers the questions as follows:

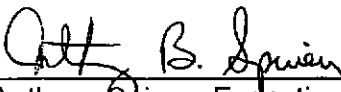
A. Yes. The electronic signature described in Rule 61G1-16.005(2), FAC, is intended to be used in lieu of the physical signature and impression seal required by Rule 61G1-16.001, FAC; no physical signature, impression seal, or other

documentation is required when a document is signed electronically pursuant to Rule 61G1-16.005(2), FAC, to meet to meet the requirements of Section 481.221, FS, and Rule 61G1-16.001, FAC.

B. No. There is no lawful purpose consistent with the requirements of Section 481.221, FS, and Rule 61G1-16.001, FAC, for an electronic image of the physical signature and impression seal required by Rule 61G1-16.001, FAC, whether secured or not, made in an electronic portable document file (e.g., an Acrobat or .pdf file).

DONE AND ORDERED this 26 day of April, 2011.

BOARD OF ARCHITECTURE AND INTERIOR DESIGN



Anthony Spivey, Executive Director

NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(D), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT-S CLERK OF AGENCY PROCEEDINGS, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to Miguel A. Rodriguez, Rodriguez Architects, Inc., 2121 Ponce de Leon Blvd., Suite 1010, Coral Gables, Florida 33134; and by interoffice mail to Mary Ellen Clark, Assistant Attorney General, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050, this 4th day of May, 2011.

Brandon M. Nichols

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/3/2011
File #	

"2nd Revised" Petition for Declaratory Statement
Before The Board of Architecture and Interior Design

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DS 2011-001

Rule: 61G1-16.005 Procedures for Signing and Sealing Electronically Transmitted Plan, Specifications, Report or Other Documents.

Recent actions taken by Authorities Having Jurisdiction over Building Permits include a conversion to the use of electronically transmitted documents. Each such jurisdiction is creating their own rules and procedures for implementation of such transmissions without clear coordination with each other and/or with the Statutes and Rules governing the practice of Architecture.

One such authority is the Miami Dade County Building Department which now requires electronic transmission of plans, specifications, reports and other documents used to acquire building permits within their area of jurisdiction. Written procedures require compliance with the FS 481.221 and more specifically with the rule which is subject of this petition (copies attached), however, plan reviewers and other department officials are requiring submission of certain items which I believe may constitute a violation of this rule. As a practitioner with building projects in this jurisdiction, I am directly affected by their actions, have endured permit processing delays and feel that I may be in a position of non-compliance with the rules of the board if I comply with their requirements.

I believe these procedures have the direct effect of reducing the level of security over the use of an architect's signature and seal with respect to official documents below the levels established by the Board for the protection of the Health, Safety and Welfare of the public.

In an effort to bring about clarity, provide guidance to practicing architects and to building departments and ensure the appropriate level of protection and security of such documents be maintained, this petition asks the Board to issue Declaratory Statements addressing the following:

1. Is it the intent of this rule that the electronic means described within the rules be used in lieu of my actual signature and seal on such documents?
2. If so, when my drawings are signed and sealed by such electronic means are they considered to have been signed and sealed in compliance with the Statutes and Rules without further signature, seal or other documentation?
3. Am I allowed to include an electronic image of my seal and/or signature on an electronic portable document file (i.e. Acrobat, .pdf) if the documents are secured by this procedure?
4. May I sign and seal paper documents, then scan their image into a secured portable document file and submit them as official documents?
5. May I use an electronic image of my seal and/or signature under any circumstances?

Your clarification of the above items is appreciated.

Respectfully submitted,


Miguel A. Rodriguez FAIA
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