MEMORANDUM Agenda Item No. 11(A)(14)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: December 1, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Resolution urging Congress to pass legislation addressing imported Chinese drywall; urging the Florida Legislature to create and fund a state program to assist homeowners in addressing Chinese drywall in Florida

This item was amended in committee to urge the Florida Legislature to pursue using Federal Emergency Management Agency (FEMA) funds to address Chinese drywall issues.

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Rebeca Sosa and Co-Sponsor Commissioner Audrey M. Edmonson.

R. A. Cuevas, Jr.
County Attorney

RAC/cp

MEMORANDUM

(Revised)

TO: Honorable Chairman Dennis C. Moss and Members, Board of County Commissioners

DATE: December 1, 2009

FROM: R. A. Cuevas, Jr. County Attorney

SUBJECT: Agenda Item No. 11(A)(14)

Please note any items checked.

_____ **"3-Day Rule" for committees applicable if raised**

_____ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **No committee review**

_____ **Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous_____) to approve**

_____ **Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 11(A)(14)
12-1-09

RESOLUTION NO. _____

RESOLUTION URGING CONGRESS TO PASS LEGISLATION ADDRESSING IMPORTED CHINESE DRYWALL; URGING THE FLORIDA LEGISLATURE TO CREATE AND FUND A STATE PROGRAM TO ASSIST HOMEOWNERS IN ADDRESSING CHINESE DRYWALL IN FLORIDA; DIRECTING THE MAYOR OR DESIGNEE TO PREPARE A REPORT RELATED TO THE PREVALENCE OF CHINESE DRYWALL IN MIAMI-DADE COUNTY AND RELATED ISSUES FACING MIAMI-DADE HOMEOWNERS

WHEREAS, in 2006 and 2007, more than 550 million pounds of drywall and associated building materials were imported from China to the U.S.; and

WHEREAS, around half this drywall was imported from China to the State of Florida, enough to build approximately 36,000 homes; and

WHEREAS, media reports indicate that drywall imported from China was also used in homes in no fewer than 11 other states, including Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia; and

WHEREAS, cases of Chinese drywall have been reported in Miami-Dade County; and

WHEREAS, testing by Florida officials found that drywall imported from China contains potentially hazardous levels of strontium sulfide, which, when exposed to moisture and humidity, can release hydrogen sulfide into the air; and

WHEREAS, emissions from drywall imported from China have caused substantial safety hazards in homes containing such drywall, including corrosion in electrical wiring, which can result in a fire hazard, failure of air conditioning units, and the failure of other household electrical products; and

WHEREAS, preliminary testing shows that the drywall may also be responsible for certain health hazards; and

WHEREAS, legislation has been filed in Congress to address the Chinese drywall issue, including S. 739 and S. Res. 91, both by Senators Bill Nelson and Mary Landrieu, and H.R. 1977 by Representative Robert Wexler; and

WHEREAS, this legislation would initiate a formal proceeding to investigate drywall imported from China from 2004 through 2007; prohibit further importation of drywall and associated building products from China; order a recall of hazardous Chinese drywall; and seek civil penalties against the drywall manufacturers in China that produced or distributed hazardous drywall and their U.S. subsidiaries to cover the cost of the recall effort and associated remediation; and

WHEREAS, the Louisiana Legislature passed legislation earlier this year authorizing the use of $5 million in Community Development Block Grant (CDBG) funds and other federal and state funds to identify and remediate Chinese drywall used as Louisiana was rebuilding from recent hurricanes; and

WHEREAS, Florida Senator Bill Nelson recently sent a letter to Florida's legislative leadership urging them to pass legislation setting up and funding a program similar to that in Louisiana to address Chinese drywall in Florida, a copy of which is attached; and

>>**WHEREAS**, Federal Emergency Management Agency (FEMA) funds could also be pursued to address Chinese drywall problems; and<<[1]

---

[1] Committee amendments are indicated as follows: words stricken through and/or [[double bracketed]] shall be deleted, words underscored and/or »double arrowed« constitute the amendment proposed.

WHEREAS, in addition to federal and state legislation, local efforts should be undertaken where possible to assist homeowners facing issues related to Chinese drywall,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Urges Congress to pass legislation addressing imported Chinese drywall.

Section 2. Urges Congress to pass S. 739, S. Res. 91, H.R. 1977 or similar legislation.

Section 3. Urges the Florida Legislature to pass legislation setting up and funding a state program address Chinese drywall in Florida using >>Federal Emergency Management Agency (FEMA) funds,<< Community Development Block Grant (CDBG) funds and other federal and state funds, to the extent such funds can be used without diverting them from existing programs.

Section 4. Directs the Mayor or designee to prepare a report related to the prevalence of Chinese drywall in Miami-Dade County and related issues facing Miami-Dade homeowners, and to present such report along with recommendations for addressing the issue of Chinese drywall to the Board within the next 90 days.

Section 5. Directs the Clerk of the Board to transmit a certified copy of this resolution to the two U.S. Senators that represent Florida, the members of the Miami-Dade County Congressional Delegation, the Governor of Florida, the Florida Senate President, Florida House Speaker and the Chair and Members of the Miami-Dade State Legislative Delegation.

Section 6. Directs the County's federal lobbyists to advocate for the passage of the legislation set forth in Sections 1, 2 and 3 above, and authorizes and directs the Office of

Intergovernmental Affairs to include this item in the 2009 and 2010 Federal Legislative Packages and the 2010 State Legislative Package.

The Prime Sponsor of the foregoing resolution is Commissioner Rebeca Sosa and the Co-Sponsor is Commissionner Audrey M. Edmonson. It was offered by Commissioner , who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

Dennis C. Moss, Chairman
Jose "Pepe" Diaz, Vice-Chairman

Bruno A. Barreiro	Audrey M. Edmonson
Carlos A. Gimenez	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 1st day of December, 2009. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By:_____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. JMM

Jess M. McCarty

MIAMI-DADE COUNTY
BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

Legislative Notes

Agenda Item:	11(A)14
File Number:	093045
Committee(s) of Reference:	Board of County Commissioners
Date of Analysis:	November 4, 2009
Type of Item:	Urging
Prime Sponsor:	Commissioner Rebeca Sosa
Co-Sponsor:	Commissioner Audrey M. Edmonson
Commission District:	Countywide

Summary
This resolution urges Congress to pass legislation addressing imported Chinese drywall and directs the Mayor or his designee to prepare a report related to the prevalence of Chinese drywall in Miami-Dade County.

Background and Relevant Legislation
The U.S. Consumer Product Safety Commission (CPSC), U.S. Environmental Protection Agency (EPA), U.S. Department of Housing and Urban Development (HUD), Centers for Disease Control and Prevention (CDC), Agency for Toxic Substance and Disease Registry (ATSDR), and numerous state departments of health have been working together to investigate and analyze how Chinese-made drywall entered the country, where it was used, what is in it, and what impact it may have on human health and corrosion of electrical and fire safety components.

CPSC has received about 1,897 reports from residents in 30 states, the District of Columbia, Louisiana, Virginia, and Puerto Rico who believe their health symptoms or the corrosion of certain metal components in their homes are related to the presence of drywall produced in China.

Affected consumers largely report that their homes were built in 2006 to 2007, when an unprecedented increase in new construction occurred in part due to the hurricanes of 2004 and 2005.[1]

A group of senators from states mentioned above is seeking a Senate resolution to urge banks and mortgage lenders to offer homeowners some relief. Sens. Nelson and LeMieux from Florida; Mary

[1] http://www.cpsc.gov/info/drywall/

Landrieu and David Vitter of Louisiana; and Mark Warner and Jim Webb of Virginia introduced the resolution.[2]

A new bill now before Congress, *the Foreign Manufacturers Legal Accountability Act of 2009* (S. 1606)[3] would require foreign manufacturers that export to the U.S. to:

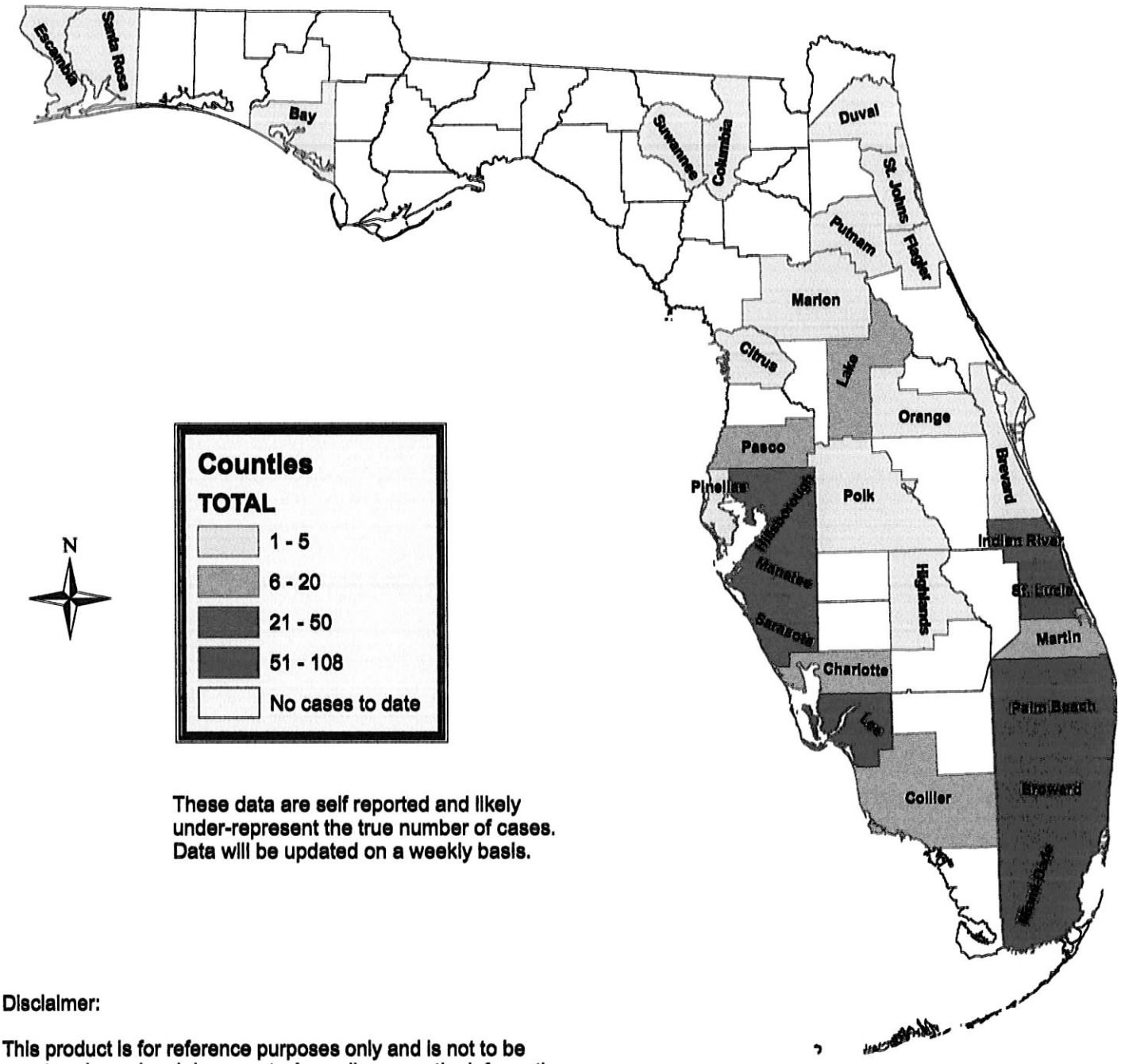
- Agree to abide by U.S. law and be held accountable by state and federal courts; and
- Have an "agent" in at least one state where the company does business that would accept the service of legal papers for any lawsuits or regulatory claims.

Prepared by: Michael Amador-Gil

[2] "Senators push for Chinese drywall relief," Miami Herald, November 5, 2009
[3] Introduced August 6, 2009

Reports of Drywall "Cases" to DOH
County Health Departments

October 30, 2009
(N = 619 in 30 counties)



These data are self reported and likely under-represent the true number of cases. Data will be updated on a weekly basis.

Disclaimer:

This product is for reference purposes only and is not to be construed as a legal document. Any reliance on the information contained herein is at the user's own risk. The Florida Department of Health and its agents assume no responsibility for any use of the information contained herein or any loss resulting therefrom.

DIVISION OF Environmental Health

http://www.doh.state.fl.us/environment/community/indoor-air/drywall.html

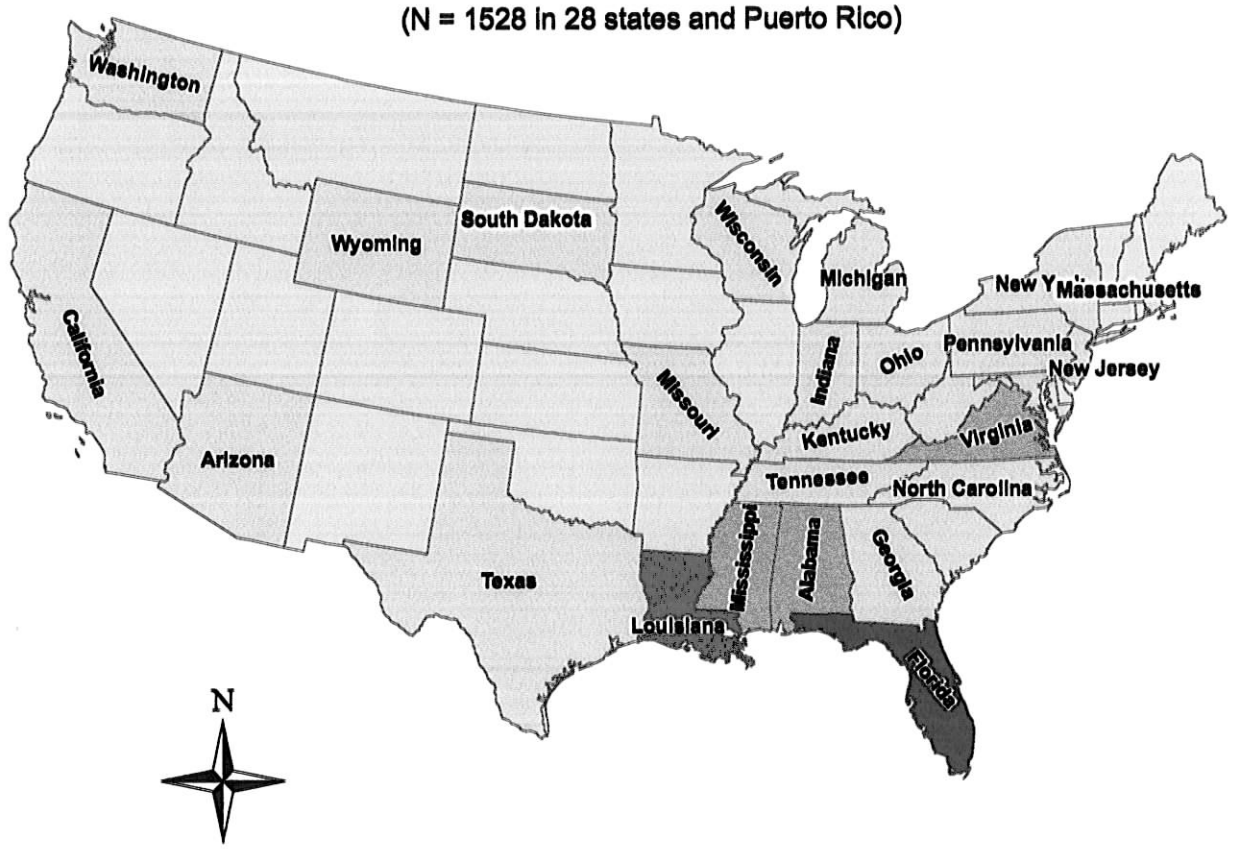
FLORIDA DEPARTMENT OF HEALTH

Reports of Drywall "Cases" Meeting FL-DOH's Case Definition

Florida Department of Health and US Consumer Product Safety Commission

October 2, 2009

(N = 1528 in 28 states and Puerto Rico)



States

Total

- <10
- 19-55
- 258
- 1120
- No cases to date

These data are self reported and likely under-represent the true number of cases. Data will be updated on a weekly basis.

Disclaimer:

This product is for reference purposes only and is not to be construed as a legal document. Any reliance on the information contained herein is at the user's own risk. The Florida Department of Health and its agents assume no responsibility for any use of the information contained herein or any loss resulting therefrom.

FLORIDA DEPARTMENT OF HEALTH