

**STATE OF FLORIDA
CONSTRUCTION INDUSTRY LICENSING BOARD**

**IN RE: THE PETITION FOR DECLARATORY
 STATEMENT OF RODNEY S. FISCHER**

**FINAL ORDER
DECLARATORY STATEMENT**

THIS MATTER came before the Construction Industry Licensing Board (Board) pursuant to section 120.565, Florida Statutes and Chapter 28-105, Florida Administrative Code. At a duly-noticed public meeting held on November 13, 2009 in Orlando, Florida, the Board considered Rodney S. Fisher's Petition for Declaratory Statement. The Petition was filed with the Department of Business and Professional Regulation on October 1, 2009. Notice of the Petition was published on October 30, 2009, in the Florida Administrative Weekly. Written comments were received from the Florida Swimming Pool Association and were considered by the Board. Petitioner, was present at the meeting. Having considered the Petition and relevant statutes and rules, the Board states the following:

FINDINGS OF FACT

1. The facts considered by the Board are as alleged in the Petition with no

further investigation by the Board. The Petition is attached hereto and incorporated by reference.

2. Petitioner is the executive director of the Pinellas County Construction Licensing Board.

3. The Petitioner receives inquiries and questions regarding whether a swimming pool/spa servicing contractor may legally perform the conversion of direct suction public/commercial pools to gravity-fed collection tank system pools in accordance with the amended Florida Public Swimming Pool Code requirements in Rule 64E-9, Florida Administrative Code.

4. The work in question requires the removal of concrete decks, penetrations of the pool structure, installation of piping arrangements, collection tanks, filters, and disinfectant devices of a new kind. The work may also include cutting or penetrating the pool shell.

CONCLUSIONS OF LAW

5. The Construction Industry Licensing Board has authority to issue this Final Order pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

6. Petitioner is substantially affected, as required by section 120.565, Florida Statutes.

7. Section 489.105, Florida Statutes provides the scope of license for swimming pool contractor classifications.

8. The Board finds that:

A. A swimming pool/spa servicing contractor cannot make any modifications of a swimming pool concrete structure.

B. A swimming pool/spa servicing contractor cannot change a filtration system from a direct suction type to a gravity fed collection tank type system.

This Final Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this _____ day of _____, 2009.

JACQUELINE A. WATTS, Chair
Construction Industry Licensing Board.

NOTICE OF RIGHT TO JUDICIAL REVIEW

A PARTY WHO IS ADVERSELY AFFECTED BY THIS FINAL ORDER IS ENTITLED TO JUDICIAL REVIEW PURSUANT TO SECTION 120.68, FLORIDA STATUTES. REVIEW PROCEEDINGS ARE GOVERNED BY THE FLORIDA RULES OF APPELLATE PROCEDURE. SUCH PROCEEDINGS ARE COMMENCED BY FILING ONE COPY OF A NOTICE OF APPEAL WITH THE AGENCY CLERK OF THE DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION AND A SECOND COPY, ACCOMPANIED BY FILING FEES PRESCRIBED BY LAW, WITH THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, OR WITH THE DISTRICT COURT OF APPEAL IN THE APPELLATE DISTRICT WHERE THE PARTY RESIDES. THE NOTICE OF APPEAL MUST BE FILED WITHIN THIRTY (30) DAYS OF RENDITION OF THE ORDER TO BE REVIEWED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to: Rodney S. Fishcer, Executive Director, 12600 Belcher Road, Suite 102, Largo, Florida 33773; and by interoffice mail to Daniel Biggins, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050, and the Construction Industry Licensing Board, 1940 North Monroe Street, MS#N14, Tallahassee, Florida 32399-1039, this _____ day of _____, 2009.