

Office of School Board Attorney
Johnny Brown, Board Attorney

**SUBJECT: CARIBBEAN ELEMENTARY SCHOOL
AUTHORITY FOR LEGAL ACTION**

COMMITTEE: FACILITIES MANAGEMENT

During the course of the forensic examination of Caribbean Elementary School conducted in connection with the District's mold, mildew and water intrusion mitigation pilot program, Tew Cardenas (outside counsel) and their consultants have discovered that claims may exist against the General Contractor (ACT Services, Inc.), Surety (American Insurance Company), Project Architect (Samuels Richter) and Uniform Building Code Inspector (Spillis, Candela and Partners) for construction and design defects and failure to properly perform inspections that have caused significant water intrusion and other damages to Caribbean Elementary School. As a result, outside counsel and consultants have determined that this school is faced with substantial repair and remediation costs in excess of \$3.5 million dollars, some of which include life safety issues. The Superintendent and his administrative staff, Board Attorney's office, and outside counsel are continuing to assess potential claims against responsible parties. However, in this particular case we must proceed expeditiously due to potential statute of limitations problems. It appears that either the General Contractor, Surety, Project Architect and Uniform Building Code Inspector may have no liability after February, 2004, with the exception of latent defects. Added

Time is of the essence in this matter, and pursuant to the statute of limitation problem, the Board's outside counsel has recommended that legal proceedings, including the preparation and filing of lawsuits, be instituted before the end of February, 2004. It is therefore requested by both the Superintendent and Board Attorney that the Board authorize the Board Attorney's office to direct outside counsel to proceed with legal action, including prosecuting a lawsuit against responsible parties, in order to protect the Board's interests in this matter. A memorandum from outside counsel containing an analysis of the problems, recommendations and estimated costs of pursuing legal action will be provided to the Board under separate cover. Added

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Board Attorney to direct outside counsel to proceed with legal action, including the filing of lawsuits against responsible parties, to recover damages incurred by the Board and other appropriate claims related to the design and construction of Caribbean Elementary School.

**REVISED
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