

Office of School Board Attorney
Johnny Brown, Board Attorney

**SUBJECT: FELIX VARELA SENIOR HIGH SCHOOL
 AND JANE ROBERTS ELEMENTARY
 AUTHORITY FOR LEGAL ACTION**

COMMITTEE: FACILITIES MANAGEMENT

During the course of the forensic examination of Felix Varela Senior High School and Jane Roberts Elementary School conducted in connection with the District's mold, mildew and water intrusion pilot program, Holland & Knight LLP (outside counsel) and their consultants have discovered that claims may exist against the General Contractors or Design Builders, Surety, Project Architects, Design Criteria Professionals, and Uniform Building Code Inspectors for construction and design defects and failure to properly perform inspections that have caused significant water intrusion, mold, mildew and other damages to Felix Varela Senior High School and Jane Roberts Elementary School. As a result, outside counsel and consultants have determined that these schools are faced with substantial repair and remediation costs in excess of \$2.3 million dollars per school, 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. In the case of Jane Roberts, we must proceed expeditiously due to potential statute of limitations problems since it appears that some of the potential parties may have no liability after March, 2004, with the exception of latent defects.

Time is of the essence in this matter. The Board's outside counsel has recommended that legal proceedings, including the preparation and filing of lawsuits, be instituted before the end of March, 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.

This item does not appear in the published Agenda. There is good cause to vary from the Agenda in order to proceed immediately to protect the Board's interests and to avoid statute of limitations problems.

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 Felix Varela Senior High School and Jane Roberts Elementary School, subject to negotiation of legal and consultant fees acceptable to the Superintendent and Board Attorney.

**GOOD CAUSE
C-1**