

Office of Superintendent of Schools
Board Meeting of August 18, 2004

August 10, 2004

Office of School Board Attorney
Johnny Brown, Board Attorney

**SUBJECT: REQUEST FOR AUTHORIZATION TO ENGAGE LEGAL SERVICES
REQUIRED FOR THE WATER INTRUSION, MOLD AND MILDEW
ACTION PLAN AT VARIOUS SCHOOLS**

COMMITTEE: FACILITIES MANAGEMENT

In November, 2003 the Board authorized an initial pilot project to engage legal services to pursue legal action against responsible parties to recover damages incurred as a result of water intrusion, mold and mildew problems that have resulted from design or construction defects at four (4) schools. Pursuant to Board authority, legal action has been engaged for three (3) of the schools. This item requests authority for legal action for the fourth school, Eugenia B. Thomas Elementary School. A memorandum from the Board's outside counsel concerning the status of the pilot program will be provided to the Board under separate cover.

Business, Operations, Finance and Construction has compiled an additional list of seven (7) schools that have significant water intrusion problems as a result of design or construction defects. Based on the occupancy and final inspection dates, these schools are near the expiration of the statute of limitations. In order to protect the interests of the Board we are seeking authority to proceed expeditiously due to the statute of limitations problems. It appears that either the General Contractor, Surety, Project Architect and Uniform Building Code Inspector may have no liability on these schools after various expiration dates of the statutes of limitations, August 2004, September 2004, and May 2005, with the exception of latent defects. Since time is of the essence, the Board Attorney with Superintendent's approval asked outside counsel to proceed with preliminary investigation and review in preparation for legal action that may include litigation against responsible parties, to protect the Board's interests and recover damages in these cases. The selected schools involved in this engagement are as follows: Jose de Diego Middle School, M.A. Milam K-8 Center, Leisure City K-8 Center, Everglades K-8 Center, Primary Learning Center at Palm Springs North Elementary, Kenwood K-8 Center and Christina M. Eve Elementary School.

The estimated cost of the legal services will be pursuant to the attorneys and consultant fees and costs previously negotiated under the initial pilot program and will be provided to the Board under separate cover.

F-7

RECOMMENDED:

That The School Board of Miami-Dade County, Florida:

- (1) authorize legal action, including the filing of a lawsuit against responsible parties to recover damages related to design and construction of Eugenia B. Thomas Elementary, the fourth pilot program school; and
- (2) confirm the Board Attorney's direction for outside counsel to proceed with investigation and review in preparation for legal action that may include the filing of lawsuits against responsible parties, to recover damages incurred by the Board from water intrusion, mold and mildew related to the design and construction of: Jose de Diego Middle School, M.A. Milam K-8 Center, Leisure City K-8 Center, Everglades K-8 Center, Primary Learning Center at Palm Springs North Elementary, Kenwood K-8 Center, and Christina M. Eve Elementary School.

JB/sh