

Cause #: 00-27B

Name: Interpretation of Section 310 and 312 of the One and Two Family Dwelling Code

Administrative Law Judge: William K. Teegarden

Date: September 11, 2000

Commission Action: Affirmed

### **FINDINGS OF FACT**

1. The office of the SBC is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5, IC 22-13, and the State One and Two Family Building Code (“Code”) apply to this proceeding.
3. The SBC is the state agency responsible for enforcing and interpreting building laws within the State of Indiana.
4. The FPBSC is the ultimate authority within the meaning of IC 4-21.5 with respect to actions taken by the SBC.
5. At all time relevant to this proceeding, the Builder was involved in single family home construction in Northeastern Indiana.
6. The LBO has the responsibility to inspect single family residences under construction in Steuben County to make sure the residences comply with the Code.<sup>1</sup>
7. One method of challenging an order issued by the LBO is to request an interpretation of applicable code sections by the SBC.
8. IC 22-13-5-2 states as follows:

“Upon the written request of an interested person, the office of the state building commissioner may issue a written interpretation of a building law. An interpretation by the office of the state building commissioner must be consistent with building laws enacted by the general assembly or adopted by the commission.”
9. IC 22-13-5-1 defines an interested person as “. . . a person that has a dispute with a county or a municipality regarding the interpretation

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<sup>1</sup> For one and two family dwellings in Indiana, the Code is 675 IAC 14-4 which by reference adopts the CABO One and Two Family Dwelling Code, 1995 edition.

of a building law.”

10. In the present case, the LBO refused to approve occupancy of an otherwise completed home because there was no 3' x 3' landing area outside a rear exit.
11. The Builder eventually requested the SBC to issue an interpretation of Section 310.1 of the 1995 One and Two Family Dwelling Code pursuant to IC 22-13-5-2.
12. The SBC issued an interpretation which essentially reversed the order of the LBO.
13. The LBO filed a timely petition for administrative review pursuant to IC 4-21.5-3.
14. IC 22-5-3(b) provides that the FPBSC is the ultimate authority over administrative appeals of SBC interpretations.
15. The facts surrounding the design of this dwelling which led to the LBO action do not appear to be in dispute.
16. The dwelling in question has a 3' x 3' landing area at the front entrance/exit but does not have one at the rear entrance/exit.
17. Since there is no dispute of material facts, this matter may be decided by summary judgment motions. See IC 4-21.5-3-23.
18. There is a presumption favoring agency interpretations of statutes and rules which the agency administers and since the SBC is required to be an architect or engineer (IC 22-15-2-2), the SBC interpretation is cloaked with that presumption.
19. The written interpretation of the SBC issued under IC 22-13-5-2 may be reversed only if the following is true:
  - (a) The interpretation is wrong as a matter of law, or
  - (b) The FPBSC, acting as the ultimate authority, decides there is a more appropriate interpretation.
20. At issue is the wording of Sections 310.1 and 312 of the 1995 Code.
21. Section 310.1 reads as follows:

“Not less than one exit conforming to this chapter shall be provided from each dwelling unit.”

22. Section 310.2 requires that “Every sleeping room shall have at least one operable window or exterior door approved for emergency egress or rescue. . . .”
23. Section 312.1 states “A minimum of 3 foot by 3 foot (914 mm by 914 mm) landing shall be required on each side of an egress door. . . .”
24. Neither “egress” nor “exit” is specifically defined in the code but the fact the code uses both words indicates there is a difference.
25. Section 310.1 requires a minimum of one exit to have the 3x3 landing area.
26. Section 310.2 requires any door to the exterior from a sleeping room to have the 3 x 3 landing area.
27. Once those two requirements are met, other exits from nonsleeping rooms are not required to meet the egress door standard of Section 312 and thus are not required to have the 3 x 3 foot landing.
28. This is precisely the conclusion reached by the SBC in his interpretation letter of February 10, 2000.
29. The SBO interpretation, attached to this decision and designated “Attachment A” states that “It is the considered opinion of this office that every egress door from a residence, but not every exit, needs to comply with section 312 of the Indiana One and Two Family Dwelling Code. . . .”
30. The LBO relies in part on dictionary definitions of “exit” and “egress” which appear to be synonymous.
31. If in fact the code drafters and adopters (FPBSC) intended the terms to be synonymous, it seems unlikely that Section 310 would only require one exit to conform to these requirements and specify that doors to the outside from bedrooms must be considered egress doors.
32. The LBO relies also on commentary to the 1995 Code which supports his view.

33. The commentary in this case was not prepared by the code authors; it was prepared by other organizations including, BOCA who have dwelling building codes of their own which are worded differently.
34. The SBC is not required to give weight or consideration to commentary prepared by any group other than the issuing body.
35. The decision of the SBC should be affirmed.

**NONFINAL ORDER**

The written interpretation of Sections 310 and 312 of the COBA 1995 One and Two Family Dwelling Code issued by the State Building Commissioner on February 10, 2000, to Delagrang Homes, Inc., and the Steuben County Building Commissioner is affirmed.