

STATE BUILDING CODE INTERPRETATION I-01-07

January 17, 2007

The following is offered in response to your January 8, 2007 letter to me in which you seek a formal interpretation of the provisions of Section 1107.6.3.1 of the 2003 International Building Code portion of the 2005 State Building Code (SBC), referred to by Section R322 of the 2003 International Residential Code portion of the SBC as it applies to a multi-building phased-construction multistory townhouse project.

Question: When a multi-building multistory townhouse project is to be constructed in phases, when must the permit applicant demonstrate compliance with Section 1107.6.3.1?

Answer: The code requires that in a building or complex containing ten or more multistory townhouses a minimum of 10 percent, but not less than one, Type B units are provided. The fact that a complex is planned to have multiple buildings does not ensure that it will be built to completion, so it is not appropriate to delay construction of the Type B units until the end of the project. The code intends that for each 10 units constructed, a minimum of one of those ten (or major fraction thereof) be a Type B unit without the phasing resulting in requiring more than a total of 10 percent Type B units. By the same token, if the initial building permit application is for only nine units, the permit applicant is under no obligation to provide a Type B unit in the initial application, even though the final complex will contain more than ten units; the first Type B unit would be triggered by permit application for the tenth unit. For example: A project consists of 20 six-unit multistory townhouse buildings for a projected total of 120 units. The code requires that if the project is built to completion, a minimum of 12 of those units be Type B units; either by providing a single-story Type B unit or by making the street floor of a multi-story unit a Type B unit. Application for the permit for the first building of 6 units would not exceed ten units in the complex, so there would be no requirement to provide a Type B unit. Application for the permit for the second building would result in a total of 12 units in the complex, so one Type B unit would be required in the second building. Application for the permit for the third building would result in a total of 18 units in the complex, which is rounded up to 20, so a total of two Type B units are now required in the complex. Application for the permit for the fourth building results in 24 total units, rounded down to 20, so the two Type B units already provided meet the code's requirements. This process would be followed until all 12 of the required Type B units were provided. Naturally if the permit applicant desired to provide additional Type B units above the minimum 10 percent required that would be acceptable. In addition, if the applicant wishes to provide the total number of required Type B units at an accelerated schedule (front-loading the project with Type B units), that would be acceptable. It is not acceptable, however, to delay construction of the Type B units to the end of the project and play "catch-up" later in the construction.

Note: The code requires, at Section 1107.6.3, that in buildings of four or more units, all single-story townhouse units shall be Type B units. For the purposes of accessibility, a one-story-above-grade townhouse with a finished basement planned at the time of initial construction is a multi-story townhouse.