

STATE BUILDING CODE INTERPRETATION NO. I-13-99

March 9, 1999

Question 1: Do we leave this decision (when a permit is required) up to the contractor or should we in the building department make the determination based on the scope of work?

Answer 1: Section 111.1 of the 1994 State Building Code sets forth those activities which trigger the need for a building permit. Section 111.3 of the code makes it clear that it is the responsibility of the owner in fee to make application for the required permit or permits. The code assumes compliance with these two sections and puts forth procedures to be followed and penalties to be imposed if the required permits are not applied for and obtained prior to commencement of the work. The contractor may only apply for the permits when so authorized by the owner (see Section 111.3 of the code). If a contractor, acting as the agent for the owner, commences work without applying for and obtaining the required permits, a violation of Section 111.1 of the code has occurred. The building department staff would be the correct agency to determine that a permit was, in fact, required and to issue the proper notice of violation to the owner, whose responsibility it was to have obtained the permit. The building department may, additionally, copy the contractor on the notice of violation for informational purposes, but the notice of violation is properly served on the owner in fee.

Question 2: Is it within the jurisdiction of the building department to call a property owner where work is being performed to determine if a permit is required?

Answer 2: If the building official has reason to believe that work requiring a building permit is being performed without said permit being issued, it is within his jurisdiction to investigate the possibility of a code violation. Care should be taken to follow the right of entry procedures set forth in Section 115.4 of the code if this investigation takes place at the site of the work. It would be prudent in my opinion to make informal contact with the owner of the premises by telephone to attempt to ascertain the scope of work and the need for issuance of a permit prior to serving notice of violation. This would avoid a situation where the notice of violation would be improper if the work, in fact, qualifies as an ordinary repair for which no permit is required. If it were determined during the course of the telephone conversation that a permit was required, the building official could take that opportunity to seek permission to conduct an inspection of the premises.

Question 3: Does the removal of an exit door for replacement with a new door require a permit even if no alteration of the opening is taking place? (Does the same apply to windows)

Answer 3: Yes. The code regulates several issues regarding windows and exit doors, setting forth requirements for clear opening, direction of swing, natural light, ventilation, and safety glazing to name a few. Therefore, a permit is required to provide the code official with the opportunity to evaluate the installation of new windows and doors for conformance with the applicable code provisions.