

STATE BUILDING CODE INTERPRETATION NO. I-16-05

December 21, 2005

The following is offered in response to your December 5, 2005 letter to me in which you request an official interpretation of the provisions of Sections R105.1 and R110.1 of the 2003 International Residential Code portion of the 1999 State Building Code, which deal with the issues of permits and certificates of occupancy for a change of occupancy from a one-family dwelling to a two-family dwelling. The scenario you present with your request is an existing building, apparently constructed as a single-family residence in 1882, that first appears as a two-family on the tax assessor's records in 2002. Your research in the records of the building department do not reveal that permits were issued for the change of occupancy.

Question 1: "Do you need a permit to convert a single-family house into a two-family?"

Answer 1: Yes. Conversion of a building from a one-family dwelling to a two-family dwelling is considered a change of occupancy and as such, requires a building permit.

Question 2: "Is a certificate of occupancy required if a single-family house is converted to a two-family?"

Answer 2: Yes. A certificate of occupancy is required for every building permit taken to signify that the building is in substantial compliance with the requirements of the State Building Code and may be used for its intended purpose.

Question 3: "What is the definition of a two-family?"

Answer 3: Two-family dwelling is not a term specifically defined in the 2003 International Residential Code portion of the 1999 State Building Code. However, from the definitions of Dwelling and Dwelling Unit, it is clear that the intent of the code is such that a two-family dwelling is a building containing two separate and independent dwelling units, each of which contains living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Question 4: In what year did the State of Connecticut pass a law that required single-family and two-family dwellings to obtain a certificate of occupancy?

Answer 4: On a state-wide basis, the applicable date would be October 1, 1970. Subsection (a) of section 29-265 of the Connecticut General Statutes states, in part, "no building or structure erected or altered in any municipality after October 1, 1970, shall be occupied or used, in whole or in part, until a certificate of occupancy..... has been issued by the building official." Prior to that date if the local municipality had a local building code, the requirements of the local code would prevail.

Question 5: Is there a letter the town would issue stating that the single-family house was converted to a two-family before the state required a certificate of occupancy; proving the property is grandfathered and does not require a certificate of occupancy?

Answer 5: The State Building Code does not contain provisions for such a letter.

Question 6: If a single-family house is converted to a two-family without a building permit or a certificate of occupancy, is it a legal property to rent to the public?

Answer 6: No, assuming the conversion without such permit took place after October 1, 1970. If so, the scenario you describe (change of occupancy and construction work without a permit and without a certificate of occupancy) would constitute a violation of Connecticut General Statutes. After September 1, 1971, the work described would also be in violation of the State Building Code. If the conversion took place prior to October 1, 1970, local building codes may or may not have allowed the conversion without a building permit and a certificate of occupancy. If it turns out that the conversion took place prior to October 1, 1970 and the municipality had no local building code at the time, no violation would have taken place and both dwelling units would be considered legally established.