

STATE BUILDING CODE INTERPRETATION NO. I-08-01

March 6, 2001

The following is offered in response to your letter to me in which you request a formal interpretation of Section 1110.2.1 of the BOCA National Building Code/1996 portion of the 1999 State Building Code.

Question one: When an alteration that affects a primary function area occurs, and section 1110.2.1 of the BOCA National Building Code/1996 portion of the 1999 State Building Code requires the expenditure of at least 20 percent of the cost of the alteration to provide an accessible route to the altered area (with the costs adjusted in accordance with exceptions 2, 3 and 4 of the referenced section), is it the intention of the code to require a tenant in a multi-tenant facility to pay for the costs associated with providing the accessible route to the altered area, even though the work required to provide the accessible route is outside of the tenant space?

Answer one: While the code sets forth the requirement that the accessible route be provided to the altered area, and provides exception one to limit the required expenditure to 20 percent of the cost of the alteration (as adjusted by exceptions 2, 3 and 4), the code does not specify who pays for the work needed to provide the accessible route. As with other code requirements, the concern of the code is achieving code-compliance, not with who bears the associated costs. In the scenario you describe, an agreement should be determined between the building owner and the tenant prior to permit issuance, to assure that the required work can be accomplished. The code likewise does not specify where the work on the accessible route must begin, so that in the event of a small alteration, it might be appropriate to spend the 20 percent on providing the accessible route within the tenant space.

Question two: What is to be done when the cost of providing the accessible route to the altered primary function area exceeds 20 percent of the cost of the alteration (as adjusted by exceptions 2, 3 and 4)?

Answer two: The code limits the required amount to be spent on providing the accessible route to the altered primary function area to 20 percent of the cost of the alteration (as adjusted by exceptions 2, 3 and 4). The accessible route includes a barrier free path of travel, restrooms and drinking fountains that are all accessible. If the available funds (as limited by the 20 percent rule) are insufficient to provide the entire accessible route, a suggested order of importance is to first provide the accessible path of travel from the parking lot to the altered area (or as much of it as the 20 percent rule funds allow), then the restrooms, and finally the drinking fountains. The philosophy of the code is that eventually, given enough alterations to the primary function area, the complete accessible route will be constructed. Of course, even though the code only requires the expenditure of 20 percent (as adjusted), it does not prevent one from spending more to provide the complete accessible route. Keep in mind that the Americans with Disabilities Act, requires accessibility to most public places, so that providing the accessible path will also result in compliance with the federal legislation.