

STATE BUILDING CODE INTERPRETATION NO. I-58-99

December 7, 1999

The following is offered in response to your letter in which you request a formal interpretation of Section 112.0 of the BOCA National Building Code/1996 portion of the 1999 State Building Code.

Question 1: Does the State Building Code dictate a formula for the charging of municipal building permit fees and if so, may that formula be based on the contract price of the project?

Answer 1: The State Building Code, at Section 112.3.1, requires the code official to establish a schedule of fees for construction document review, building permit and certificate of occupancy. The code states that the established schedule of fees must be posted for public view. The code does not determine how such fees are to be established, or what system of valuation is to be used in such determination. Section 112.3 authorizes the code official to establish by approved rules (such approved rules are determined locally, not at the state level) a schedule of unit rates for all types of buildings and structures. The language of 112.3 is, however, permissive and not mandatory, once again underscoring that each municipality has the right to establish building permit fees in any way they see fit.

Question 2: Does the State Building Code permit a municipal building official to request or demand a copy of the consumer's contract with a contractor and place that contract in a file which is available to the public?

Answer 2: The code does not specifically speak to the issue of construction contracts, but there are two sections in the code through which a building official could require such a document. Section 107.2 states "The application for a permit shall be submitted in such written form as the code official prescribes...." If the code official requires the application to include a copy of the contract, this section of the code supports such a requirement. Section 107.5 states: "The application for permit shall be accompanied by not less than two sets of construction documents." Construction documents are defined in the code as "All of the written, graphic and pictorial documents prepared or assembled for describing the design, location and *physical characteristics of the elements of the project necessary for obtaining a building permit.*" (emphasis added) If the building official determines that a copy of the contract is necessary for obtaining a building permit for the purpose of determining fee, it is a legitimate requirement under this section.

Question 3: Does the State Building Code allow a municipality to charge a building permit fee which exceeds the cost of the services received from the building department?

Answer 3: Yes. There is no relationship set forth in the code between fee charged and services received.