



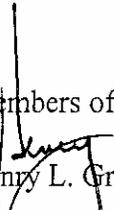
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STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
LANSING

KEITH W. COOLEY
DIRECTOR

DOCUMENT #08-11

December 21, 2007

TO: Members of the Construction Code Commission
FROM:  Henry L. Green
SUBJECT: Request for Formal Interpretation

Below you will find a request for interpretation of Section R105.2. This interpretation has been reviewed by staff and it is our recommendation this interpretation be accepted by the Commission for issuance.

Request for Interpretation:

May a building department require a building permit for an ordinary repair such as the residing of a structure where the repair does not include any of the prohibited actions found in R105.2.2?

Response:

No, the Michigan Residential Code (Code) does not require a permit for residing an existing single family residence, when performed in the course of maintenance of the exterior protection of an enclosed space.

Section R105.2.2 of the Code establishes in that ordinary repairs may be made without application or notice to the building official. This section goes on to note that "the repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load bearing support, or the removal or change in any required means of egress or rearrangement of parts of a structure affecting the egress requirements, . . ."

Further, while the Code does not enumerate this type of work in Section R105.2, Section R105.2.2 is an extension of the parent Section R105.2. The work identified in Section R105.2 outlines what could be typically classified as new work, i.e.: a one story detached accessory structure, if the floor area does not exceed 200 square feet.

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Section R101.2 of The Michigan Residential Code references the International Property Maintenance Code¹. The exception to this Section provides:

“Existing buildings undergoing repair, alteration or additions, and change in occupancy shall be permitted to comply with the International Existing Building Code.”

Section 101.2 of the Michigan Rehabilitation Code for Existing Buildings states that:

“The provisions of this code shall apply to the repair, alteration, change of occupancy, addition, and relocation of existing buildings. A building or portion of a building which has not been previously occupied or used for its intended purpose shall comply with the provisions of the Michigan building code for new construction. Repairs, alterations, change of occupancy, existing buildings to which additions are made, historic buildings, and relocated buildings complying with the provisions of the Michigan Building Code, the Michigan Electrical Code, the Michigan Residential Code, the Michigan Mechanical Code, and the Michigan Plumbing Code shall be considered to be in compliance with this code.”

Repairs are those which would involve the replacement or repair of an existing building component. Thus, the restrictions of Section R105.2.2, including the limitations on the impact to the structural system and means of egress are set forth for the protection of the building occupants.

This however, does not exempt the work from compliance with the provisions of the code addressing the specific material or repair. Section R105.2 provides, “Exemption from the permit requirements of the code shall not be deemed to grant authorization for work to be done in any manner in violation of the provisions of the code or any other laws or ordinances . . .”

Section R102.7.1 of the Michigan Residential Code also provides:

“Additions, alterations or repairs to any structure shall conform to that required for a new structure without requiring the existing structure to comply with all of the requirements of this code unless otherwise stated. Additions, alterations or repairs shall not cause an existing structure to become unsafe or adversely affect the performance of the building.”

¹ All references to the International Building Code, International Residential Code, International Energy Conservation Code, International Electrical Code, International Existing Building Code, International Mechanical Code, and International Plumbing Code mean the Michigan Building Code, Michigan Residential Code, Michigan Uniform Energy Code, Michigan Electrical Code, Michigan Rehabilitation Code for Existing Buildings, Michigan Mechanical Code, and Michigan Plumbing Code respectively. R408.30401

Further, Section 102.1 of the Michigan Rehabilitation Code for Existing Buildings provides in part:

“Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. . . “

Section 10(7) of the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, provides:

“Notwithstanding this section, a building permit is not required for ordinary repairs of a building and structure.”

Maintenance of the exterior weather protection is vital for the health, safety and welfare of the building occupants. If the exterior weather protection fails; the structural system of the building may become exposed to conditions that would lead to the demise of the structural integrity of the building. The mechanical and electrical systems contained in exterior walls may be exposed to the elements causing unsafe conditions. Therefore, repair of exterior siding is essential in the protection of the buildings enclosed space.

HLG/hav



December 11, 2007

Mr. Donald Pratt
Chairman, State Construction Code Commission
Bureau of Construction Codes
Department of Labor and Economic Growth
P.O. Box 30254
Lansing, MI 48909

Dear Mr. Pratt:

The Stille-DeRossett-Hale Single State Construction Code Act (Public Act 230 of 1972 as amended) provides for the statewide application of both the Act and the State Construction Code. The Act also provides for the State Construction Code Commission to oversee uniform interpretation and enforcement of the State Construction Code Act. In this regard, the commission issues both technical bulletins which provide clarification on issues which arise regarding code administration and enforcement and formal interpretations of code requirements.

The Michigan Association of Home Builders is requesting the State Construction Code Commission to issue formal interpretations on the following two questions.

1. An issue has arisen regarding the necessity to obtain a building permit for non-emergency repairs.

Section 105.2.2 of the 2003 Michigan Residential Code governs the issuance of permits for repairs. This section provides that "***Application or notice to the building official is not required for ordinary repairs to structures (emphasis added), replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition, or portion thereof, the removal or cutting of any structural beam of load bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring, or mechanical or other work affecting public health and general safety.***"

Section R202 Definitions defines "Repair" as "*The reconstruction or renewal of any part of an existing building for the purposes of its maintenance.*"

The Michigan Association of Home Builders is requesting a formal interpretation from the Commission on the following question:

"May a building department require a building permit for an ordinary repair such as the residing of a structure where the repair does not include any of the prohibited actions found in R105.2.2?"

2. An issue has arisen over the interpretation of Section R102.7 Existing Structures of the 2003 Michigan Residential Code and R102.6 Existing Structures of the 2003 Michigan Building Code.

The Existing Structures language found in both of the above cited code sections as well as Section 101.4 of the 2003 Michigan Rehabilitation Code for Existing Buildings reads as follows: "*The legal occupancy of any structure existing on the date of the adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the International Property Maintenance Code, or the International Fire Code, or as deemed necessary by the building official for the general safety, and welfare of the occupants and the public.*"

Local Construction Boards of Appeal are allowed to grant variances from the code only where "*The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.*"

Additionally, once plans have been approved or the permit has been issued, the code under which the project was approved/issued is the applicable code throughout the completion of the project. If a new code becomes effective during the construction process any new or changed requirements it contains cannot be applied to the project.

It has been asserted that, rather than restricting a building department from enforcing current code requirements on existing buildings except in cases where there is an particularized hazard which requires abatement through the application of a specific code provision to assure the safety of occupants within an individual building or structure, the language "*as deemed necessary by the building official for the general safety and welfare of the occupants and the public*" allows for the wholesale application of current code requirements to entire classes of existing structures legally in existence on the date of the adoption of the code, even when no additions, alterations or repairs are being performed on the structure, the legal occupancy of the structure has not changed and no particularized hazard exists.

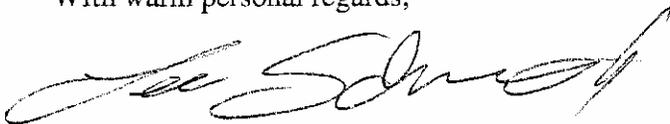
The Michigan Association of Home Builders is requesting a formal interpretation from the Commission on the following question:

“When no additions, alterations or repairs are being performed on the structure, the legal occupancy of the structure has not changed and the structure has no particularized hazard which requires abatement, do Sections Section R102.7 of the MRC, Section R102.6 of the MBC and Section 101.4 of the MRCEB allow for a building department to apply, on a general or occupancy group basis, a current code requirement to existing buildings?”

An example of such an application would be a building department requiring homes with basements which were built before the 2000 Michigan Residential Code requirement for emergency escape and rescue openings appeared in the code to retrofit those basements by installing those openings when no work is being done in the structure, the legal occupancy of the structure has not changed and no particularized hazard exists.

Please feel free to contact me if you have any questions or if I can offer you any further information.

With warm personal regards,

A handwritten signature in black ink, appearing to read "Lee Schwartz", written in a cursive style.

Lee Schwartz
Executive Vice President for Government Relations
Michigan Association of Home Builders