

**BEFORE THE NORTH CAROLINA BUILDING CODE COUNCIL
RALEIGH, NORTH CAROLINA**

Docket No. 2013-02

**IN THE MATTER OF AN APPEAL BY)
FLOYD V. ROBERTSON OF)
NORTH CAROLINA DEPARTMENT)
OF INSURANCE DECISION)
DATED 25 JULY 2013 REGARDING)
THE NORTH CAROLINA PLUMBING CODE)**

**ORDER AND FINAL
AGENCY DECISION**

THIS MATTER was heard on 10 March 2014 by the North Carolina Building Code Council (hereinafter "Council") on appeal by Floyd Robertson ("Robertson") from a Decision dated 25 July 2013 by the North Carolina Department of Insurance ("Department") regarding a water heater installation at a residence located at 337 Oak Arbor Lane, Winston-Salem, North Carolina 27104. Based upon the competent evidence in the record, the arguments of the parties, and the record as a whole, the Council makes the following:

FINDINGS OF FACT

- 1. Robertson is a licensed plumbing contractor.**
- 2. Robertson applied for and was issued a plumbing permit dated 25 February 2013 for the installation of a replacement water heater at a residence located in Winston-Salem, North Carolina 27104.**
- 3. The City of Winston-Salem / Forsyth County Inspections Division performed an inspection of the water heater and notified Robertson in an inspection report dated**

28 February 2013 that the inspection of the water heater failed, notifying Robertson in the "[c]omments" section of the inspection report as follows: "support open end pex line serving T.R.P. VALVE . . . recall when ready, thanks."

4. Robertson appealed the 28 February 2013 Decision by the City of Winston-Salem / Forsyth County Inspections Division to the Department.

5. On or about 28 May 2013, the Department, through Chief Plumbing Code Consultant William H. Moeller, P.E. ("Moeller"), issued a Decision / Interpretation upholding the inspection findings on 28 February 2013 by the City of Winston-Salem / Forsyth County Inspections Division.

6. In particular, the Department's 28 May 2013 Decision stated as follows:

1. The inspector required that the open end of the pex line serving the TPR be secured.

In summary, my conclusion is that the PEX pipe used as discharge piping for the relieve [sic] valve of a water heater is a flexible pipe and is required to be secured near the discharge end of the discharge pipe. This is in accordance with item 6, Section 504.6 of the 2012 NC Plumbing Code to provide discharge in a manner that does not cause personal injury.

7. Robertson appealed the Department's 28 May 2013 Decision / Interpretation.

8. On or about 25 July 2013, the Department, through Chief Code Consultant Barry Gupton, issued a Decision against Robertson upholding the Department's 28 May 2013 Decision / Interpretation.

9. In particular, the Department's 25 July 2013 Decision stated as follows:

The inspector required that the open end of the PEX line serving the TPR (temperature and pressure relief valve) be secured.

In summary, my conclusion is that PEX pipe used as discharge piping for the relief valve of a water heater is a flexible pipe and is

required to be secured near the discharge end of the discharge pipe. This is in accordance with Item 8, Section 504.6 of the 2012 NC Plumbing Code to provide discharge in a manner that does not cause personal injury.

10. Robertson appealed the Department's 25 July 2013 Decision to the Council.

11. The pipe that is the subject of this appeal is a flexible pipe. This pipe did not have a clamp or any other item at or near the discharge end of the pipe fastening the pipe in a manner to direct water flow or to prevent the discharge end of the pipe from moving around.

12. Item 8, Section 504.6 of the 2012 North Carolina Plumbing Code states:

504.6 Requirements for discharge piping. The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

6. Discharge in a manner that does not cause personal injury or structural damage.

(Emphasis in original.)

13. Item 8, Section 504.6 of the International Plumbing Code is identical to Item 8, Section 504.6 of the 2012 North Carolina Plumbing Code.

14. The 2009 Commentary of the International Plumbing Code states as follows:

The code does not prohibit the use of the flexible types of water distribution piping listed in Table 605.4 for the relief valve discharge. However, Item 6 of this section would require that the end of the relief valve discharge pipe of flexible material be attached in some manner to direct the water flow to a "safe" location as well as prevent the end of the pipe from moving around so as to not expose the building occupants to a hot water discharge.

15. The 2009 Commentary of the International Plumbing Code may provide guidance but is not binding.

16. The North Carolina Plumbing Code does not expressly require that the discharge end or the area near the discharge end of a relief valve discharge pipe of flexible material be attached in some manner to direct the water flow to a "safe" location and to prevent the end of the pipe from moving around so as to not expose the building occupants to a hot water discharge.

17. The Council finds that the pipe that is the subject of this appeal would discharge in a manner that would not cause personal injury or structural damage, notwithstanding that the pipe was not fastened or attached at or near the discharge end of the pipe.

Based on the foregoing Findings of Fact, the Council makes the following:

CONCLUSIONS OF LAW

1. This appeal is properly before the Council and the Council has jurisdiction over this matter and the parties.

2. The 2009 Commentary of the International Plumbing Code may provide guidance but is not binding.

3. The North Carolina Plumbing Code does not expressly require that the discharge end or the area near the discharge end of a relief valve discharge pipe of flexible material be attached in some manner to direct the water flow to a "safe" location and to prevent the end of the pipe from moving around so as to not expose the building occupants to a hot water discharge.

4. The pipe that is the subject of this appeal would discharge in a manner that would not cause personal injury or structural damage, notwithstanding that the pipe was not fastened or attached at the end or near the end of the discharge area of the pipe;

therefore, the pipe did not violate Item 6, Section 504.6 of the 2012 North Carolina Plumbing Code.

5. The Council concludes that the Department's 25 July 2013 Decision should be reversed and that the pipe that is the subject of this appeal be passed in inspection.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department's 25 July 2013 Decision is REVERSED.

SO ORDERED, this the 11th day of March 2014.

North Carolina Building Code Council

By: 
Dan Tingen, Chairman

Appeal Rights: This Order, which is considered a Final Agency Decision, may be appealed to Superior Court within 30 days of receipt of this Order, as set out in Chapter 150B of the North Carolina General Statutes.