

**NC Department of Insurance
Office of State Fire Marshal, Engineering Division**

RE: Appeal of the March 2023)
 Denial of Alternate Method by)
 Mecklenburg County)
 Inspection Department) NCDOI DECISION

In accordance with GS 160D-1127, Chris Campbell, representing Campbell Code Consulting has appealed the Mecklenburg County Inspection Department decision regarding application of the 2021 edition of the International Building Code Section 1016.2 as an alternate method to the 2018 NC Building Code Section 1016.2 for single means of egress of apartments through an elevator lobby for a project located at 3305 South Boulevard, Charlotte, NC.

GS 160D-1127 allows appeals from any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws to the Commissioner of Insurance or his designee.

PARTIES

Appellant: Chris Campbell, PE
 Campbell Code Consulting
 7834 Taggart Ct.
 Elkridge, MD 21075

Appellee: Mecklenburg County Code Enforcement
 2145 Suttle Avenue
 Charlotte, NC 28208

BACKGROUND

On January 19, 2023 appellant requested approval of an alternate method from the appellee. The alternate method consisted of using 2021 International Building Code Section 1016.2.1 in place of 2018 NC Building Code Section 1016.2.1 to allow apartments to egress directly into an elevator lobby as the only means of egress for certain apartment units. The 2018 edition of the NC Building Code is indicated as “NCBC” and 2021 edition of the International Building Code as “IBC” in the remainder of this document unless specifically noted otherwise in this document.

On February 22, 2023 the appellee denied the appellant's request for use of the alternate method with the explanation that both the NCBC and IBC intended for a dwelling with only one means of egress to have access to an exit without passing through an elevator lobby.

On March 8, 2023 appellant appealed the February 22, 2023 decision to the director of inspections for appellee as is the appellee's written policy. The appeal referenced IBC Section 1016.2 instead of Section 1016.2.1 that was noted in the January 19, 2023 appeal.

After March 8, 2023 but before March 16, 2023 the appellee denied the appellant's March 8, 2023 appeal based on similar reasons as the February 22, 2023 denial of the appellee. The exact date of the appellee's response to the appellant's March 8, 2023 appeal was not provided with the appellant's supporting documentation.

On March 16, 2023 the appellee appealed the decision of the appellant to the NC Department of Insurance.

ISSUE RAISED IN APPEAL

The appellant questions the appellee's denial of the use of IBC Section 1016.2 as an alternate method and the appellee's interpretation of IBC 1016.2 as not allowing a portion of the proposed apartment units to egress directly into an elevator lobby as the only path of egress for those apartments.

The following issue is raised in Appellants' appeal:

"The basis for this appeal is our view point that the 2021 IBC modified Section 1016.2 from the previous language found in earlier editions of the code such that the new code language specifically allows the situation we are proposing.

The full text of our original AM&M request can be found in Attachment 1, but the general intent is to allow certain Group R-2 dwellings units and several small trash rooms and mechanical/electrical rooms to have their only exit access path through an enclosed elevator lobby. In all cases, once an occupant enters the elevator lobby, they can then choose between a minimum of two exits."

FINDINGS

Based on information submitted by the appellant, the following findings are made:

1. A copy of the February 22, 2023 and March 2023 appellee denial of appellant's January 19, 2023 and March 8, 2023 request for approval of an alternate method were provided with the appeal. The March 2023 appellee denial states in part: "The request memo within figure 1 reflects two exits within the elevator lobby. But the section reference has explicit language that indicates and specific at least one exit is allowed, and I would assume the 2nd exit access would not be within the same elevator lobby space."

2. NCBC Section 1016.2 states in part:

“1016.2 Egress through intervening spaces. Egress through intervening spaces shall comply with this section.

1. *Exit access* through an enclosed elevator lobby is permitted. Access to not less than one of the required *exits* shall be provided without travel through the enclosed elevator lobbies required by Section 3006. Where the path of exit access travel passes through an enclosed elevator lobby, the level of protection required for the enclosed elevator lobby is not required to be extended to the *exit* unless direct access to an *exit* is required by other sections of this code.”

3. The IBC has not yet been adopted by the NC Building Code Council, but it was introduced on December 13, 2022 by the NC Building Code Council Building Code/Fire Code standing committee for adoption by the council. The council approved the code to be moved to public comment for the March 14, 2023 council meeting, but the code has not yet been adopted by the council. IBC Section 1016.2 was not amended by the committee or council and states in part as follows:

“1016.2 Egress through intervening spaces. Egress through intervening spaces shall comply with this section.

1. *Exit access* through an enclosed elevator lobby is permitted. Where access to two or more exits or exit access doorways is required in Section 1006.2.1, access to not less than one of the required *exits* shall be provided with-out travel through the enclosed elevator lobbies required by Section 3006. Where the path of *exit access* travel passes through an enclosed elevator lobby, the level of protection required for the enclosed elevator lobby is not required to be extended to the *exit* unless direct access to an *exit* is required by other sections of this code.”

4. The commentary to the 2018 edition of the NC Administrative Code and Policies Section 105.1 states in part:

“The technical codes are not intended to inhibit innovative ideas or technological advances. A comprehensive regulatory document, such as the North Carolina Building Codes, cannot envision and then address all future innovations in the industry.... The code enforcement official is expected to apply sound technical judgement in accepting materials, systems or methods that, while not anticipated by the drafters of the current code text, can be demonstrated to offer equivalent performance.”

5. IBC Section 1006.2.1 states in part:

“1006.2.1 Egress based on occupant load and common path of egress travel distance. Two exits or exit access doorways from any space shall be provided where the design occupant load or the common path of egress travel distance exceeds the values listed on Table 1006.2.1.

Exceptions:

1. In Group R-2 and R-3 occupancies, one means of egress is permitted within and from individual dwelling units with a maximum occupant load of 20 where the dwelling unit is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.1.2 and the common path of travel does not exceed 125 feet (38 100 mm).”

6. Appellant provided partial floor plans with the request for appeal that show dwelling units affected by this appeal. The dwelling units comply with NCBC Section 1006.2.1, exception 1 for a single means of egress. Some dwelling units on the partial floor plans have their only means of egress through an elevator lobby.

CONCLUSIONS

Based on the forgoing findings of fact, the following conclusions are made:

NCBC Section 1006.2.1 allows the appellant’s proposed dwelling units that egress through elevator lobbies to have a single means of egress.

NCBC Section 1016.2 does not allow a space with a single means of egress to be configured such that the single egress must pass through an elevator lobby.

IBC Section 1016.2, item #1 begins by stating that access through an elevator lobby is permitted and then indicates that when two means of egress are required one of the means of egress cannot pass through the elevator lobby. As the codes allow some spaces to have a single means of egress, the codes already risk the loss of life of the occupants of such spaces. I, therefore, conclude that IBC Section 1016.2 intends to allow a space with a single means of egress to be configured such that single means of egress can pass through an elevator lobby.

The proposed design offered by the appellant does not comply with the requirements of NCBC Section 1016.2 but does comply with the requirements of IBC Section 1016.2.

2018 edition of NC Administrative Code and Policies Section 105.1 indicates that alternate designs and methods must comply “with the intent and provisions of the technical codes.”

Finding no other amendments to the IBC that affect the use or design of an elevator lobby from what is found in the NCBC, it is concluded that the preliminary acceptance of IBC Section 1016.2 by the NC Building Code Council as written and be included in the 2024 edition of the NCBC Section 1016.2 implies that the council considers the allowance of spaces with a single means of egress that egress entirely through an elevator lobby without requiring a second means of egress to be safe. The intent of the council as well as the 2018 edition of the NC Administrative Code and Policies Section 105.1 for alternate methods is, therefore, met by using IBC 1016.2 in place of NCBC 1016.2.

APPEAL DECISION

Based on the above findings and conclusions:

The decision by the appellee to deny the allowance of dwellings units with a single means of egress configured to allow the sole means of egress to pass through an elevator lobby before reaching an exit as an alternate method to NCBC Section 1016.2 by use of IBC Section 1016.2 is not upheld.

This 22nd day of March 2023.



Carl Martin, RA
Deputy Commissioner
Division Chief of Engineering
North Carolina Department of Insurance

FURTHER APPEAL RIGHTS

The appellant and appellee have the right to appeal this decision to the NC Building Code Council. Please refer to GS 160D-1114 and the NC Administrative Code and Policies, Section 202.9.2 for further appeal rights. In accordance with GS 143-141 you have 30 days in which to appeal this decision to the NC Building Code Council.

Cc:

Patrick Granson, Director of Inspections, Mecklenburg County
Nathan Childs, Special Deputy Attorney General – NCBC
Dan Johnson, Special Deputy Attorney General, NCDOI