



*Engineering*

*Wayne Goodwin, Commissioner of Insurance  
Rick McIntyre, Assistant State Fire Marshal*

June 6, 2015

Patrick Mulligan  
Mulligan Epstein Attorneys  
2802 Market Street  
Wilmington, NC 28403

**RE: 2012 NC Residential Code  
Section R312, Guards  
Confirmation of Interpretation**

Mr. Mulligan:

This letter is in response your request for confirmation of interpretation dated 9/4/2015. I have compared your summary of Melanie Butler' interpretation to the 2012 NC Residential Code.

The following information is confirmed:

1. **Section R312, Guards.** Guards are required where the walking surface is more than 30" above the adjacent grade.
2. Guards must be built in accordance with Code even if the deck is not 30" above grade, in the event that the owner or builder has undertaken to erect handrails where not otherwise required by Code based on height above grade.
3. The local code enforcement offices seek and receive guidance from our office on such interpretation and enforcement issues.
4. Our office does indeed provide this official guidance to the local offices in regard to interpretation and enforcement.
5. The NC State Building Codes are construction, rather than maintenance, Codes.

The NC Building Code Council adopts the NC State Building Codes. The NC Department of Insurance, Engineering Division serves as Staff to the NCBCC, maintains the official records, and interprets the Codes. Please call if you have comments or questions.

Sincerely,

Barry Gupton, PE  
Chief Code Consultant

cc: File  
Melanie Butler, NCDOI

Wake County, North Carolina

I certify that BARRY GUPTON personally appeared before me this day and acknowledged to me that he signed the foregoing document.

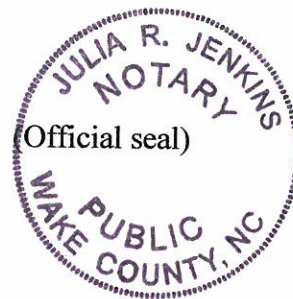
Date: 6/6/15

Notary Public

Signature: Julia R. Jenkins

Printed Name: Julia R. Jenkins

My Commission Expires: 3-27-18



June 4, 2015

Mr. Barry Gupton  
Office of the State Fire Marshall  
**DELIVERED BY EMAIL AS PDF COPY**

**Re: Code Interpretation**

Dear Mr. Gupton:

I am an attorney in Wilmington, NC. I am writing to request a formal statement of code interpretation from your office.

When I talked with Melanie, I understood her to say that it is your office's official interpretation that deck rails must be built and maintained in accordance with Code even if the deck is not 30" above grade, in the event that the owner or builder has undertaken to erect handrails where not otherwise required by Code based on height above grade. My subject deck is very likely not 30" above grade but the landlord / owner of the rental property maintained handrails on this deck that were not built to code.

I understood Melanie to say the following:

1. It is your office's official interpretation that such rails must be built and maintained per Code.
2. That the local code enforcement offices seek and receive guidance from your office on such interpretation and enforcement issues.
3. That your office does indeed provide this official guidance to the local offices in regard to interpretation and enforcement.

If all of this information is accurate, I would greatly appreciate confirmation of such from you. I will likely present this confirmation to the Court so I will need it in Affidavit form (sworn and signed before a Notary).

Please let me know if you have questions or if you need additional information. I greatly appreciate the kind assistance I received from your office thus far.

Sincerely,



Patrick J. Mulligan

