



## Engineering

Mike Causey, Commissioner of Insurance

January 11, 2017

Tommy Rowland  
Mechanical/Plumbing Code Administrator  
Mecklenburg County LUESA  
2145 Suttle Avenue  
Charlotte, NC 28208

**RE: 2012 NC Mechanical Code  
Section 306.5, Equipment and Appliances on Roofs or Elevated Structures  
Ann's Beauty Supply, 3304 Eastway Drive, Charlotte, NC 28205**

Mr. Rowland:

This letter is in response your request for formal interpretation dated 12/20/2016. I have also reviewed the attached e-mail string.

The specific question raised in the request letter (in my words) is:

*Can the required roof access for a multi-tenant building be located within a single tenant space, if it is written into the lease agreement?*

**306.5 Equipment and appliances on roofs or elevated structures.** *Where equipment and appliances requiring periodic maintenance are installed on roofs or elevated structures at a height exceeding 16 feet (4877 mm), such access shall be provided by a permanent approved means of access, the extent of which shall be from grade or floor level to the equipment and appliances' level service space. Such access shall not require climbing over obstructions greater than 30 inches (762 mm) high or walking on roofs having a slope greater than four units vertical in 12 units horizontal (33-percent slope). Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall. (Ladder and catwalk text omitted)*

The Commentary addresses roof access from either exterior or interior of the building, but does not address leases and tenancy. It is my understanding that this building contains 4-tenant spaces and that roof access is provided from within 2-of the 4-tenant spaces. It is also my understanding that historically you have required the roof access to be either in a common area or in each tenant space. Since access to the roof is provided in 50% of the tenant spaces, I concur with Dan Dittman' opinion that a lease agreement is sufficient to insure prompt roof access. Other conditions should be evaluated based on either your historical requirement or other alternate means (permanent deed restriction). Please contact us if you have comments or questions.

Sincerely,

Barry Gupton, PE  
Chief Code Consultant

cc: File  
Daniel Priest, Priest Architecture  
Dan Dittman, NCDOT



**MECKLENBURG COUNTY**  
Land Use & Environmental Services Agency  
Code Enforcement

Tommy Rowland  
Mechanical/Plumbing Code Administrator  
Mecklenburg County Code Enforcement  
2145 Suttle Ave  
Charlotte, NC 28208  
December 20, 2016

Barry Gupton  
Chief Code Consultant  
NC Department of Insurance  
1202 Mail Service Center  
Raleigh, NC 27699-1202

Dear Barry Gupton:

I am writing to request a formal interpretation in regards to permanent roof access per 306.5 NCMC. Dan Dittman provided an informal interpretation on December 19, 2016. In his informal interpretation he stated roof access in a multi-tenant building would be allowed in single tenant space, if it was written into the lease agreement. Historically we have required the roof access to be in a common area or in each tenant space, this way all tenants had the same level of access.

We feel this does not meet the spirit of the code and creates considerable enforcement issues as lease agreements are dynamic, always changing at renewal or new tenants. The next tenant may not agree to the terms which would leave the tenants without access at a disadvantage.

Sincerely,

A handwritten signature in cursive script that reads "Tommy Rowland".

Tommy Rowland  
Mechanical/Plumbing Code Administrator

## Gupton, Barry

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**From:** Daniel S. Priest <priestarchitect@bellsouth.net>  
**Sent:** Wednesday, December 28, 2016 5:20 PM  
**To:** Gupton, Barry; 'Rowland, Tommy D.'  
**Cc:** Dittman, Daniel E; 'Granson, Patrick'; Martin, Carl  
**Subject:** RE: Permanent Roof Access

Barry,

Yes, there is a specific location in mind. The emails below provide the background.

The building in question has 4 tenant spaces. This building also has (2) roof hatches, both of which are located within two separate tenant spaces and provided with permanent wall mounted ladders. The field inspector is requiring each tenant to have a roof hatch for access because the (2) roof hatches are not located in a common area. Mr. Tommy Rowland (*Mecklenburg county mechanical code administrator*) is supporting this requirement. Mr. Dan Dittman in his email on 12/19 (*see below*) provided a very concise "informal" code interpretation. Mr. Rowland would like a formal interpretation.

Can you please expedite the formal interpretation Mr. Rowland has requested?

Sincerely,

Daniel S. Priest  
Priest Architecture, PLLC  
P.O. Box 5295  
Charlotte, NC 28299  
(O) 704-379-1810  
(M) 980-253-8600  
(F) 704-379-1910  
(E) [priestarchitect@bellsouth.net](mailto:priestarchitect@bellsouth.net)  
[www.priestarchitecture.com](http://www.priestarchitecture.com)

### Physical Address

1204 The Plaza, Unit 2  
Charlotte, NC 28205

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**From:** Gupton, Barry [mailto:Barry.Gupton@ncdoi.gov]  
**Sent:** Wednesday, December 28, 2016 3:51 PM  
**To:** Rowland, Tommy D.  
**Cc:** Dittman, Daniel E; Granson, Patrick; 'Daniel S. Priest'; Martin, Carl  
**Subject:** RE: Permanent Roof Access

Is this a generic question or is there a specific location in mind? Thanks. Barry.

### **306.5 Equipment and appliances on roofs or elevated structures.**

Where *equipment* and appliances requiring periodic maintenance are installed on roofs or elevated structures at a height exceeding 16 feet (4877 mm), such access shall be provided by a permanent *approved* means of access, the extent of which shall be from grade or floor level to the *equipment* and

appliances' level service space. Such access shall not require climbing over obstructions greater than 30 inches (762 mm) high or walking on roofs having a slope greater than four units vertical in 12 units horizontal (33-percent slope). Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall.

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**From:** Martin, Carl  
**Sent:** Wednesday, December 21, 2016 12:40 PM  
**To:** Rowland, Tommy D. <[Tommy.Rowland@mecklenburgcountync.gov](mailto:Tommy.Rowland@mecklenburgcountync.gov)>  
**Cc:** Dittman, Daniel E <[dan.dittman@ncdoi.gov](mailto:dan.dittman@ncdoi.gov)>; Granson, Patrick <[Patrick.Granson@mecklenburgcountync.gov](mailto:Patrick.Granson@mecklenburgcountync.gov)>; 'Daniel S. Priest' <[priestarchitect@bellsouth.net](mailto:priestarchitect@bellsouth.net)>; Gupton, Barry <[Barry.Gupton@ncdoi.gov](mailto:Barry.Gupton@ncdoi.gov)>  
**Subject:** RE: Permanent Roof Access

Tommy,

The Administrative Code and Policies requires formal interpretations to be addressed by the Chief Code Consultant. Barry is the Chief Code Consultant. Please address your request for formal interpretation to Barry. Thanks.

## Carl Martin

Chief Building Code Consultant  
Engineering Division  
Office of State Fire Marshal  
N. C. Department of Insurance  
116 West Jones Street  
Raleigh, NC 27603  
Tel: 919-647-0009

*Office Hours: 7:00am to 4:00pm*

Mailing Address:  
NC Department of Insurance  
Office of State Fire Marshal  
Attn: Carl Martin  
1202 MSC  
Raleigh, NC 27699-1202

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**From:** Rowland, Tommy D. [<mailto:Tommy.Rowland@mecklenburgcountync.gov>]  
**Sent:** Tuesday, December 20, 2016 8:08 AM  
**To:** Martin, Carl <[Carl.Martin@ncdoi.gov](mailto:Carl.Martin@ncdoi.gov)>  
**Cc:** Dittman, Daniel E <[dan.dittman@ncdoi.gov](mailto:dan.dittman@ncdoi.gov)>; Granson, Patrick <[Patrick.Granson@mecklenburgcountync.gov](mailto:Patrick.Granson@mecklenburgcountync.gov)>; 'Daniel S. Priest' <[priestarchitect@bellsouth.net](mailto:priestarchitect@bellsouth.net)>  
**Subject:** FW: Permanent Roof Access

Carl,

Attached is our written request for a formal interpretation on Permanent Roof Access. The email chain below provides the background.

We look forward to your response.

Tommy Rowland

Mechanical/Plumbing Code Administrator  
2145 Suttle Ave  
Charlotte, NC 28208  
980-314-3099  
[Tommy.Rowland@Mecklenburgcountync.gov](mailto:Tommy.Rowland@Mecklenburgcountync.gov)

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**From:** Dittman, Daniel E [<mailto:dan.dittman@ncdoi.gov>]  
**Sent:** Monday, December 19, 2016 10:22 AM  
**To:** Rowland, Tommy D. <[Tommy.Rowland@mecklenburgcountync.gov](mailto:Tommy.Rowland@mecklenburgcountync.gov)>; [priestarchitect@bellsouth.net](mailto:priestarchitect@bellsouth.net)  
**Subject:** RE: Permanent Roof Access

Mr. Rowland, Mr. Priest,

On the issue of access to the roof-mounted equipment, Section 306.5 does not require that the permanent means of access be located in a common area, or there be a dedicated access for each tenant. It is looking at the building as a whole, and as long as there are not property lines being crossed, then 306.5 does not prohibit the access to be located in a tenant space even though the equipment being accessed may serve a different tenant.

The practical issues you provided – alarms, security, night-time access, (or worse, daytime hours for a retailer), etc, are very real concerns, but as long as the building owner adheres to allowing/requiring access to the “permanent approved means of access” then there is not a code violation. However, section 102.3 is requiring that the building owner operate the building in a manner that is in compliance with the code under which it was installed, therefore if a lease agreement is drawn up that denies access to the means of roof access, then the building owner/lease agreement is in violation of 102.3 and therefore 306.5 at that point in time. By the same token, if there is an existing lease agreement that does not allow access to the permanent means of access, and it is not changed, then I would say NCMC 306.5 is not being met.

If these were buildings side-by-side with a property line, i.e. a party-wall, I would agree that separate access would be required for those buildings, and reliance on leases across property lines is not prescriptively meeting section 306.5.

On the issue of fire risers, and panels, this interpretation of NCMC 306.5 is limited to 306.5. Where other code sections have specific tenant requirements, those requirements need to be adhered to. I have several responses in the text of your original e-mail below.

This interpretation is an informal interpretation as outlined in NC Administrative Code 203.2.1.1 and it can be appealed by either party for a formal interpretation via 203.2.1.2 if it does not adequately address your interpretation request.

### **Pertinent code sections:**

**102.3 Maintenance.** Mechanical systems, both existing and new, and parts thereof shall be maintained in proper operating condition in accordance with the original design and in a safe and sanitary condition. Devices or safeguards which are required by this code shall be maintained in compliance with the code edition under which they were installed. The owner or the owner's designated agent shall be responsible for maintenance

of mechanical systems. To determine compliance with this provision, the code official shall have the authority to require a mechanical system to be reinspected.

### **306.5 Equipment and appliances on roofs or elevated structures.**

Where equipment and appliances requiring periodic maintenance are installed on roofs or elevated structures at a height exceeding 16 feet (4877 mm), such access shall be provided by a permanent approved means of access, the extent of which shall be from grade or floor level to the equipment and appliances' level service space. Such access shall not require climbing over obstructions greater than 30 inches (762 mm) high or walking on roofs having a slope greater than four units vertical in 12 units horizontal (33-percent slope). Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall.

**APPROVED.** Acceptable to the code official for compliance with the provisions of the applicable code or referenced standard.

Sincerely,

Daniel Dittman, P.E., CMVP  
Chief Mech Code Consultant, NCDOL  
919-647-0012

“The Office of State Fire Marshal has moved to 116 West Jones Street in Raleigh. My new phone number will be 919-647-0012. The new main number for OSFM will be 919-647-0000.”

Free on-line Code Viewer link:

[http://www.ecodes.biz/ecodes\\_support/Free\\_Resources/2012NorthCarolina/12NorthCarolina\\_main.html](http://www.ecodes.biz/ecodes_support/Free_Resources/2012NorthCarolina/12NorthCarolina_main.html)

Cumulative Amendments to 2012 Code:

[http://www.ncdoi.com/OSFM/Engineering\\_and\\_Codes/Documents/2012\\_NCBuildingCode\\_amendments/2012-2016ApprovedCumulativeTest1Format.pdf](http://www.ncdoi.com/OSFM/Engineering_and_Codes/Documents/2012_NCBuildingCode_amendments/2012-2016ApprovedCumulativeTest1Format.pdf)

Common ASHRAE Standards Referenced in the code free viewer:

<https://www.ashrae.org/standards-research--technology/standards--guidelines/other-ashrae-standards-referenced-in-code>

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**From:** Rowland, Tommy D. [<mailto:Tommy.Rowland@mecklenburgcountync.gov>]

**Sent:** Friday, December 16, 2016 3:32 PM

**To:** Dittman, Daniel E <[dan.dittman@ncdoi.gov](mailto:dan.dittman@ncdoi.gov)>

**Cc:** 'priestarchitect@bellsouth.net' <[priestarchitect@bellsouth.net](mailto:priestarchitect@bellsouth.net)>; Vernon, Jeffrey D.

<[Jeff.Vernon@mecklenburgcountync.gov](mailto:Jeff.Vernon@mecklenburgcountync.gov)>; Granson, Patrick <[Patrick.Granson@mecklenburgcountync.gov](mailto:Patrick.Granson@mecklenburgcountync.gov)>

**Subject:** Permanent Roof Access

Dan,

This is a follow up as requested per our phone conversation this afternoon. I have some concerns with writing equipment/roof access into a lease agreement. The code does not mention lease agreements anywhere in any of the codes. The person that signed that agreement can die, go out of business or move to a different location; the next person may not agree to the terms of access. Also, if a contractor needs to come in and work all night (as many do) to repair or replace a unit, the tenant with the roof access is going to open his space up all night for the contractors to go in and out of to access the unit for the space next door.

I don't feel this meets the intent of the code.

- You are not allowed to put your electrical panel in another tenant space
- You are not allowed to put fire safety (riser or fire alarm panel) in another tenant space, it has to be in your space or a common area. – **yes, if the code calls out and specifically references tenant spaces, those requirements need to be followed - DED**
- With this line of thinking, a person could put their air handlers in another tenant space and duct it in -
- Almost all business have an alarm, as a business owner I wouldn't want to share my alarm code with anyone – **Understood. It may be difficult to get some tenants to agree due to security concerns. That would be a business decision for the bldg. owner. - DED**

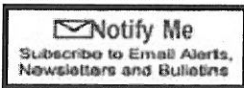
The section on roof access has always been interpreted as needing to be in your space or in a common area.

Please discuss it with Carl and let us know what NCDOL's official position is.

Thank you,

Tommy Rowland  
Mechanical/Plumbing Code Administrator  
2145 Suttle Ave  
Charlotte, NC 28208  
980-314-3099  
[Tommy.Rowland@Mecklenburgcountync.gov](mailto:Tommy.Rowland@Mecklenburgcountync.gov)

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## Gupton, Barry

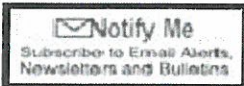
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**From:** Rowland, Tommy D. <Tommy.Rowland@mecklenburgcountync.gov>  
**Sent:** Tuesday, January 03, 2017 12:27 PM  
**To:** Dittman, Daniel E; Gupton, Barry  
**Subject:** RE: Permanent Roof Access

We are looking for a formal interpretation to use in this case and how to handle future cases of a similar nature.

Tommy Rowland  
Mechanical/Plumbing Code Administrator  
2145 Suttle Ave  
Charlotte, NC 28208  
980-314-3099  
[Tommy.Rowland@Mecklenburgcountync.gov](mailto:Tommy.Rowland@Mecklenburgcountync.gov)

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**From:** Dittman, Daniel E [mailto:[dan.dittman@ncdoi.gov](mailto:dan.dittman@ncdoi.gov)]  
**Sent:** Tuesday, January 03, 2017 12:24 PM  
**To:** Gupton, Barry <[Barry.Gupton@ncdoi.gov](mailto:Barry.Gupton@ncdoi.gov)>  
**Cc:** Rowland, Tommy D. <[Tommy.Rowland@mecklenburgcountync.gov](mailto:Tommy.Rowland@mecklenburgcountync.gov)>  
**Subject:** RE: Permanent Roof Access

Barry,

Not to put words in anyone's mouth, but my understanding is this formal interpretation would be used as a policy-maker for any building of this nature. In my informal interpretation, the subtleties of deeds vs leases was not considered by myself.

Dan Dittman

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**From:** Gupton, Barry  
**Sent:** Wednesday, December 28, 2016 3:51 PM  
**To:** Rowland, Tommy D. <[Tommy.Rowland@mecklenburgcountync.gov](mailto:Tommy.Rowland@mecklenburgcountync.gov)>  
**Cc:** Dittman, Daniel E <[dan.dittman@ncdoi.gov](mailto:dan.dittman@ncdoi.gov)>; Granson, Patrick <[Patrick.Granson@mecklenburgcountync.gov](mailto:Patrick.Granson@mecklenburgcountync.gov)>; 'Daniel S. Priest' <[priestarchitect@bellsouth.net](mailto:priestarchitect@bellsouth.net)>; Martin, Carl <[Carl.Martin@ncdoi.gov](mailto:Carl.Martin@ncdoi.gov)>  
**Subject:** RE: Permanent Roof Access

Is this a generic question or is there a specific location in mind? Thanks. Barry.

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