



BRIAN TAYLOR
STATE FIRE MARSHAL

January 13, 2025

Mr. Michael Carline
Four Points Development LLC
1055 Thomas Jefferson St. NW, Suite 210
Washington, DC 20007

RE: 2018 NCBC Section 3109 Swimming Pools, Spas and Hot Tubs

Mr. Carline:

This letter is in response to your request for a formal interpretation from the Office of State Fire Marshal ("OSFM") dated 10/23/23 and received by OSFM the same day. This delayed formal response letter serves to complete the documentation requested by Michael Carline of Four Points Development LLC. Thank you for your patience in waiting for this formal interpretation response while our office handled other commitments. Requests are addressed below in the order in which they are posed.

Stated in relevant parts:

"We are part of three joint ventures developing multi-family projects ranging from 180 to 260 units in the city of Durham. All three projects have a swimming pool with residential units around the perimeter with potential direct access from the units. We are trying to get a clear interpretation on pool barriers and access that can be applied to all three projects. This request for a Formal Interpretation is to broadly understand how to apply the International Swimming Pool & Spa Code and confirm if it is superseded by other portions of the code that may conflict with its regulations. At a practical level we are trying to confirm that an apartment unit, in a multi-unit building, can directly access an adjacent pool and deck via the apartment unit directly without first navigating through a fence enclosing the pool. Simply, can a barrier have an opening to access the pool deck. Durham City County has currently ruled that only fence and a barrier with no openings is permitted to completely enclose a pool. We disagree with their interpretation of the North Carolina Building Code (NCBC) and looking for the North Carolina State Building Code Council to provide a Formal Interpretation."

Remarks:

Attachment A is comprised of the request for formal interpretation as well as all supporting information submitted with the request.

OFFICE OF STATE FIRE MARSHAL

1202 MAIL SERVICE CENTER | RALEIGH NC 27699 -1202 | TEL 919.647.0000 | FAX 866.851.6508 | NCOSFM.GOV



Code Analysis: The design and construction of swimming pools shall comply with the International Swimming Pool and Spa Code (ISPSC), as noted in 2018 North Carolina Building Code (NCBC), Section 3109.1. For the 2018 NCBC, the applicable version of the ISPSC is the 2015 edition. 2018 NCBC, Section 3109.3 notes fence, barrier and screen enclosure requirements for public swimming pools for all occupancies except R-3.

....

3109.1 General. The design and construction of swimming pools, spas and hot tubs shall comply with the *International Swimming Pool and Spa Code*.

3109.2 Definition. The following term is defined in Chapter 2.

SWIMMING POOLS.

3109.3 Public swimming pools. Public swimming pools (all occupancies except Group R-3) shall be completely enclosed by a fence or barrier not less than 4 feet (1290 mm) in height or a screen enclosure. Openings in the fence shall not permit the passage of a 4-inch-diameter (102 mm) sphere. The fence or screen enclosure shall be equipped with self-closing and self-latching gates.

....

Conclusions: The adoption of Sections 3109.2 and 3109.3 in the 2018 NCBC by the North Carolina Building Code Council (NCBCC) was in reaction to the International Code Council (ICC) deletion of those sections from the 2015 International Building Code (IBC). The 2018 NCBC is the 2015 IBC with North Carolina amendments. The 2012 NCBC (2009 IBC with North Carolina amendments) included Sections 3109.2 and 3109.3.

3109.2 Definition. The following word and term shall, for the purposes of this section and as used elsewhere in this code, have the meaning shown herein.

SWIMMING POOLS. Any structure intended for swimming, recreational bathing or wading that contains water over 24 inches (610 mm) deep. This includes in-ground, above-ground and on-ground pools; hot tubs; spas and fixed-in-place wading pools.

3109.3 Public swimming pools. Public swimming pools (all occupancies except Group R-3) shall be completely enclosed by a fence or barrier at least 4 feet (1290 mm) in height or a screen enclosure. Openings in the fence shall not *permit* the

2012 NORTH CAROLINA BUILDING CODE

passage of a 4-inch-diameter (102 mm) sphere. The fence or screen enclosure shall be equipped with self-closing and self-latching gates.



The NCBC decided to add Sections 3109.2 and 3109.3 into the 2018 NCBC since the 2015 ISPSC was only code by reference under 2018 NCBC Section 102.4 and was not a published volume of the 2018 North Carolina State Building Code and the NCBC thought it was important to emphasize that public swimming pools needed to be protected with fences, barriers or screen enclosures. The requirements of 2018 NCBC, Section 3109 match the requirements within 2015 ISPSC, Sections 305.2.1, 305.2.2 and 305.3, respectively. 2015 ISPSC, Section 305.4 allows a part of the building (structure) to be used as a barrier for pool protection.

305.2.1 Barrier height and clearances.



Barrier heights and clearances shall be in accordance with all of the following:

1. The top of the barrier shall be not less than 48 inches (1219 mm) above grade where measured on the side of the barrier that faces away from the pool or spa. Such height shall exist around the entire perimeter of the barrier and for a distance of 3 feet (914 mm) measured horizontally from the outside of the required barrier.
2. The vertical clearance between grade and the bottom of the barrier shall not exceed 2 inches (51 mm) for grade surfaces that are not solid, such as grass or gravel, where measured on the side of the barrier that faces away from the pool or spa.
3. The vertical clearance between a surface below the barrier to a solid surface, such as concrete, and the bottom of the required barrier shall not exceed 4 inches (102 mm) where measured on the side of the required barrier that faces away from the pool or spa.
4. Where the top of the pool or spa structure is above grade, the barrier shall be installed on grade or shall be mounted on top of the pool or spa structure. Where the barrier is mounted on the top of the pool or spa, the vertical clearance between the top of the pool or spa and the bottom of the barrier shall not exceed 4 inches (102 mm).

....

305.2.2 Openings.

Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.

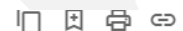
....

305.3 Gates.

Access gates shall comply with the requirements of Sections 305.3.1 through 305.3.3 and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool or spa, shall be self-closing and shall have a self-latching device.

....

305.4 Structure wall as a barrier.



Where a wall of a dwelling or structure serves as part of the barrier and where doors or windows provide direct access to the pool or spa through that wall, one of the following shall be required:

1. Operable windows having a sill height of less than 48 inches (1219 mm) above the indoor finished floor and doors shall have an alarm that produces an audible warning when the window, door or their screens are opened. The alarm shall be listed and labeled as a water hazard entrance alarm in accordance with UL 2017. In dwellings or structures not required to be Accessible units, Type A units or Type B units, the operable parts of the alarm deactivation switches shall be located 54 inches (1372 mm) or more above the finished floor. In dwellings or structures required to be Accessible units, Type A units or Type B units, the operable parts of the alarm deactivation switches shall be located not greater than 54 inches (1372 mm) and not less than 48 inches (1219 mm) above the finished floor.
2. A safety cover that is listed and labeled in accordance with ASTM F 1346 is installed for the pools and spas.
3. An approved means of protection, such as self-closing doors with self-latching devices, is provided. Such means of protection shall provide a degree of protection that is not less than the protection afforded by Item 1 or 2.

....



A link to the 2015 ISPSC, Section 305 Barrier Requirements is provided below for reference.

https://codes.iccsafe.org/content/ISPSC2015/chapter-3-general-compliance#ISPSC2015_Ch03_Sec305

The design and construction of swimming pools shall comply with 2018 NCBC Section 3109 and the 2015 ISPSC. Specifically, the requirements for fences, barriers and screen enclosures included in 2018 NCBC Section 3109 are intended to emphasize a portion of the 2015 ISPSC and do not represent a conflict in the use of code. Buildings (structures) can be used as a partial barrier within 2015 ISPSC, Section 305.4. 2018 NCBC 3109.3 as well as other sections within 2015 ISPSC, Section 305 provide the code requirements for the portion of the pool protection not provided by the buildings (structures).

Sincerely,

David Rittlinger, PE, LEED AP
Division Chief – Codes & Interpretations
North Carolina Office of State Fire Marshal

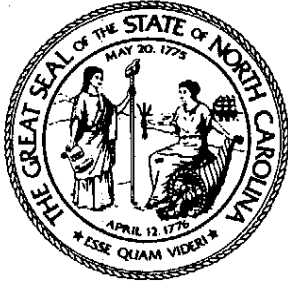
cc: Nathan Childs, NCDOJ, counsel for NC Building Code Council, nchilds@ncdoj.gov
Nicki Shaffer, NCDOJ, counsel for NC Residential Code Council, wshaffer@ncdoj.gov
Pak Yip, NCOSFM, Chief Code Consultant, pak.yip@ncdoi.gov



ATTACHMENT A

(see attached pdf)





**APPENDIX E
 APPEALS
 NORTH CAROLINA
 BUILDING CODE COUNCIL
 1429 Rock Quarry Road, Suite 105
 Raleigh, North Carolina 27610
 (919) 647-0008
 david.rittlinger@ncdoi.gov**

APPEAL TO NCDOI/NCBCC Hearing Date ____ / ____ / ____

GS 153A-374, GS 160A-434
 Formal Interpretation by NCDOI _____
 Appeal of Local Decision to NCDOI _____

GS 143-140, GS 143-141
 Appeal of Local Decision to NCBCC _____
 Appeal of NCDOI Decision to NCBCC _____

APPELLANT Michael Carline **PHONE** (202) 660 - 8103 x _____
REPRESENTING Four Points Development LLC
ADDRESS 1055 Thomas Jefferson St NW suite 210
CITY Washington **STATE** DC **ZIP** 20007
E-MAIL mcarline@fourpointslc.com **FAX** (_____) _____ - _____

North Carolina State Building Code, Volume _____ - Section 3109

REQUEST ONE: Formal Interpretation by NCDOI Appeal of Local Decision to NCBCC
 Appeal of Local Decision to NCDOI Appeal of NCDOI Decision to NCBCC

Type or print. Include all background information as required by the referenced General Statutes and the attached policies. Attach additional supporting information.

[See Attachment](#)

REASON:
 We are part of three joint ventures developing multi-family projects ranging from 180 to 260 units in the city of Durham. All three projects have a swimming pool with residential units around the perimeter with potential direct access from the units. We are trying to get a clear interpretation on pool barriers and access that can be applied to all three projects.

Signature Michael Carline DATE: 10.23.2023 **APPEAL TO NCDOI/NCBCC**
FORM 3/14/17

Appellant: Michael Carline

Representing: Four Points Development, LLC

This request for a Formal Interpretation is to broadly understand how to apply the International Swimming Pool & Spa Code and confirm if it is superseded by other portions of the code that may conflict with its regulations. At a practical level we are trying to confirm that an apartment unit, in a multi-unit building, can directly access an adjacent pool and deck via the apartment unit directly without first navigating through a fence enclosing the pool. Simply, can a barrier have an opening to access the pool deck.

Durham City County has currently ruled that only fence and a barrier with no openings is permitted to completely enclose a pool. We disagree with their interpretation of the North Carolina Building Code (NCBC) and looking for the North Carolina State Building Code Council to provide a Formal Interpretation.

In section 3109 of the 2018 NCBC there are two applicable provisions, and they are as follows:

3109.1 General

The design and construction of swimming pools, spas and hot tubs shall comply with the International Swimming Pool and Spa Code.

3109.3 Public swimming pools

Public swimming pools (all occupancies except Group R-3) shall be completely enclosed by a fence or barrier not less than 4 feet (1290 mm) in height or a screen enclosure. Openings in the fence shall not permit the passage of a 4-inch-diameter (102 mm) sphere. The fence or screen enclosure shall be equipped with self-closing and self-latching gates.

The initial interpretation from Durham City County, paraphrased, was because there are two standards (NC Building Code & ISPSC) the stricter of the two complies meaning that because 3109.3 does not mention openings in a barrier, only a fence or screen, the only acceptable option for openings in the pool enclosure is a fence or screen as it is "NCBC specific" (see email Exhibit A – Email 1 dated January 18, 2023). I reconfirmed Durham City County's interpretation as shown in Exhibit B - Email 1 & 2 dated August 30, 2023 & August 29, 2023, respectively.

Our interpretation is there is one standard since the *International Swimming Pool and Spa Code* (ISPSC) is the NC Building Code, per *section 3109.1*, and it is not superseded by *section 3109.3 Public Swimming Pools*. Furthermore, *section 3109.3* does not exclude openings in barriers only supplements guidelines on fences and screens. With no guidelines for barriers in the general code text, one would reference the ISPSC, as another section of the NC Building Code, to ensure one is complying with any other barrier requirements or exceptions. This includes how openings in barriers can be acceptable as stated in *section 305.4 Structure wall as a barrier*, noted below.

Excerpted from

2015 International Swimming Pool and Spa Code

305.4 Structure wall as a barrier.

Where a wall of a dwelling or structure serves as part of the barrier and where doors or windows provide direct access to the pool or spa through that wall, one of the following shall be required:

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1. *Operable windows having a sill height of less than 48 inches (1219 mm) above the indoor finished floor and doors shall have an alarm that produces an audible warning when the window, door or their screens are opened. The alarm shall be listed and labeled as a water hazard entrance alarm in accordance with UL 2017. In dwellings or structures not required to be Accessible units, Type A units or Type B units, the operable parts of the alarm deactivation switches shall be located 54 inches (1372 mm) or more above the finished floor. In dwellings or structures required to be Accessible units, Type A units or Type B units, the operable parts of the alarm deactivation switches shall be located not greater than 54 inches (1372 mm) and not less than 48 inches (1219 mm) above the finished floor.*
2. *A safety cover that is listed and labeled in accordance with ASTM F 1346 is installed for the pools and spas.*
3. *An approved means of protection, such as self-closing doors with self-latching devices, is provided. Such means of protection shall provide a degree of protection that is not less than the protection afforded by Item 1 or 2.*

It is our position that provided openings in barriers comply with the ISPSC provisions in this section openings are acceptable. An informal interpretation from Pak Keung Yip, P.E., Chief Building Code Consultant with N.C. Department of Insurance, responded and shows support for our conclusions (See Exhibit C - Email dated September 13, 2023).

EXHIBIT A

Exhibit A: Email 1

From: Libby Pelzel <LibbyP@clinedesignassoc.com>
Sent: Wednesday, January 18, 2023 2:20 PM
To: Michael Carline <mcarline@fourpointslc.com>
Cc: Elliot W. Buff <ElliotB@clinedesignassoc.com>; Amanda Skalik <AmandaSk@clinedesignassoc.com>; John Sunter <jsunter@fourpointslc.com>
Subject: RE: Greenhouse VE Questions

Hi Michael,
We received a response from the building inspector.
Please see below:

That is an outstanding question!

While I understand the logic behind the proposal, I'll attempt to illustrate my interpretation of 3109.3 below in red.

3109.3 Public swimming pools.

Public swimming pools (all occupancies except Group R-3) shall be completely enclosed by a fence or barrier not less than 4 feet (1290 mm) in height or a screen enclosure.

Barriers in this instance are not specifically defined however, the walls of the building are acceptable as barriers via common definition as they block passage.

Openings in the fence shall not permit the passage of a 4-inch-diameter (102 mm) sphere.

The fence or screen enclosure shall be equipped with self-closing and self-latching gates.

Note here that it does not mention openings in barriers, just the fence or screen enclosure that is assumed to be in place, which is NCBC specific.

ISPSC 305.4 has specific provisions to accomplish your proposal relating to access doors, but I don't think that gets you around the NC fence or barrier requirement.

Wyatt (W.C.) Blalock
Chief Building Inspector
Durham City-County Inspections Department
101 City Hall Plaza, Ground Floor
St. 400, Durham, N.C. 27701
919-369-9133
wyatt.blalock@durhamnc.gov
Durham City County Inspections Resources Online
<https://durhamnc.gov/293/City-County-Inspections>
Inspections Records Online
<https://ldo4.durhamnc.gov/DurhamWeb/#>
City-County Inspections Staff Contacts
<https://durhamnc.gov/Directory.aspx?did=37>

Thanks,



IMAGINE A PLACE

Libby Pelzel

Designer

125 N. Harrington Street · Raleigh, NC 27603
919 833 6413 ext. 4127 o

[LinkedIn](#) | [Instagram](#) | [Twitter](#) | [Facebook](#) | [YouTube](#) | [Portfolio](#)

EXHIBIT B

Exhibit B: Email 1

From: Blalock, Wyatt <Wyatt.Blalock@durhamnc.gov>
Sent: Wednesday, August 30, 2023 9:12 AM
To: Michael Carline <mcarline@fourpointslc.com>
Subject: RE: Greenhouse VE Questions

I stand by my earlier interpretation.

I take no exception to your requesting an interpretation from NCDOL if you feel such is necessary.

Regards.

Wyatt (W.C.) Blalock
Chief Building Inspector
Durham City-County Inspections Department
101 City Hall Plaza, Ground Floor
St. 400, Durham, N.C. 27701
919-369-9133
wyatt.blalock@durhamnc.gov
Durham City County Inspections Resources Online
<https://durhamnc.gov/293/City-County-Inspections>
Inspections Records Online
<https://ldo4.durhamnc.gov/DurhamWeb/#>
City-County Inspections Staff Contacts
<https://durhamnc.gov/Directory.aspx?did=37>

Exhibit B: Email 2

From: Michael Carline <mcarline@fourpointslc.com>
Sent: Tuesday, August 29, 2023 10:31 PM
To: Blalock, Wyatt <Wyatt.Blalock@durhamnc.gov>
Subject: RE: Greenhouse VE Questions

Hi WC

I am an Owner working on several multi-family projects in Durham and I have been wrestling with the NC code to make sure I understand what the possibilities are for barriers around public swimming pools. I have been working with Cline Design and one of their architects reported your response which is in the chain below. Of course this issue came up again on my next project with a different design architect (Cline Design is the architect of record) so I wanted to review the code myself. In my research I come up with a different code interpretation based on the specific citations in the International Swimming Pool and Spa Code (ISPSC) which you referenced.

Since the ISPSC is the NC Building Code, per 3109.1, it is not superseded by section 3109.3 Public Swimming Pools. 3109.3 does not exclude openings in barriers only supplements further guidelines on fences and gates. The ISPSC does address how penetrations in barriers can be acceptable and as you

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noted in section 305.4, no. 6 , self-closing/latching doors appear to be an acceptable alternative. Can you please review again and confirm your interpretation. I have clipped images of the pertinent code sections below.

Warm Regards,
Mike

2018 North Carolina State Building Code: Building Code

SECTION 3109

SWIMMING POOLS, SPAS AND HOT TUBS

3109.1 General.

The design and construction of swimming pools, spas and hot tubs shall comply with the International Swimming Pool and Spa Code.

3109.2 Definition.

The following term is defined in Chapter 2.

SWIMMING POOLS.

3109.3 Public swimming pools.

Public swimming pools (all occupancies except Group R-3) shall be completely enclosed by a fence or barrier not less than 4 feet (1290 mm) in height or a screen enclosure. Openings in the fence shall not permit the passage of a 4-inch-diameter (102 mm) sphere. The fence or screen enclosure shall be equipped with self-closing and self-latching gates.

2021 International Swimming Pool and Spa Code (ISPSC)

305.4 Structure wall as a barrier.

Where a wall of a dwelling or structure serves as part of the barrier and where doors, gates or windows provide direct access to the pool or spa through that wall, one of the following shall be required:

- 1. Operable windows having a sill height of less than 48 inches (1219 mm) above the indoor finished floor, doors and gates shall have an alarm that produces an audible warning when the window, door or their screens are opened. The alarm shall be listed and labeled as a water hazard entrance alarm in accordance with UL 2017.*
- 2. In dwellings not required to be Accessible units, Type A units or Type B units, the operable parts of the alarm deactivation switches shall be located at not less than 54 inches (1372 mm) above the finished floor.*
- 3. In dwellings that are required to be Accessible units, Type A units or Type B units, the operable parts of the alarm deactivation switches shall be located not greater than 54 inches (1372 mm) and not less than 48 inches (1219 mm) above the finished floor.*
- 4. In structures other than dwellings, the operable parts of the alarm deactivation switches shall be located not greater than 54 inches (1372 mm) and not less than 48 inches (1220 mm) above the finished floor.*
- 5. A safety cover that is listed and labeled in accordance with ASTM F1346 is installed for the pools and spas.*
- 6. An approved means of protection, such as self-closing doors with self-latching devices, is provided. Such means of protection shall provide a degree of protection that is not less than the protection afforded by Item 1 or 2.*

Michael Carline | Four Points Development LLC | 202.660.8103
1805 7th St nw suite 800 Washington, DC 20001

EXHIBIT C

Exhibit C: Email 1

From: Yip, Pak <pak.yip@ncdoi.gov>
Sent: Wednesday, September 13, 2023 8:33 AM
To: Michael Carline <mcarline@fourpointslc.com>
Subject: RE: [External] FW: Greenhouse VE Questions
Michael,

Chapter 3 of the ISPSC (2015) offers numerous choices for swimming pool barriers. It seems that Section 3109.3 satisfies the basic barrier criteria, and the ISPSC provides additional information on the various options available.

If you are interested in submitting a formal interpretation, the request shall be submitted to our Chief Code Consultant. The following link shall provide the instruction for filing a formal interpretation.

<https://www.ncosfm.gov/appeals-and-formal-interpretations>

I hope the information above is helpful to you. Please let me know if you have any further questions or require additional information.

Best regards,

Pak Keung Yip, P.E.
Chief Building Code Consultant



N.C. Department of Insurance
Office of State Fire Marshal
1202 Mail Service Center
Raleigh, NC 27699-1202
919.647.0007

Exhibit C: Email 2

From: Michael Carline <mcarline@fourpointslc.com>
Sent: Wednesday, September 13, 2023 8:19 AM
To: Yip, Pak <pak.yip@ncdoi.gov>
Subject: RE: [External] FW: Greenhouse VE Questions

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hello Mr. Yip:

Thank you for your reply on this matter. I have forwarded your response to the Durham Chief Building Inspector, WC Blalock, and he has communicated that I need to get a formal interpretation from NCDOL in order for it to be accepted in Durham. His response was as follows:

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From WC Blalock

“The stricter of the two standards governs when both are applicable. Why doesn’t the entire pool section of the current code simply end with a reference to the IPSC? I am sorry about this, but an email from NCDOL isn’t going to cut it on this one. Again, my apologies for the inconvenience, but you will need a formal interpretation from them on this.”

My interpretation of your earlier response is you did not agree with WC’s interpretation and there are not two standards. To move this forward I am interested in understanding the process for this “formal interpretation” first. Is there an application or do I write the interpretation and send it to your office for an official review?

If this is a process that you initiate I do want to make sure the formal interpretation addresses my specific question. I want confirmation, if agreed, that direct access from an apartment unit’s patio door to a pool deck with no fence or screen is permitted, under the definition doors are openings in a barrier, provided it complies with the requirements of ISPSC (2015) 305.4. Furthermore, clarification that a barrier is different than a fence and 3109.3 Public swimming pools (NC-IBC) is not a stricter standard but not applicable to “barrier” specific requirements and thus 305.4 governs.

Your guidance on the appropriate next steps would be greatly appreciated. If a conversation is easier or preferred please do reach out.

Regards,
Mike

Michael Carline | Four Points Development LLC | 202.660.8103
1055 Thomas Jefferson St NW Suite 210 Washington, DC 20007

Exhibit C: Email 3

From: Yip, Pak <pak.yip@ncdoi.gov>
Sent: Thursday, August 31, 2023 4:33 PM
To: Michael Carline <mcarline@fourpointslc.com>
Subject: RE: [External] FW: Greenhouse VE Questions

Michael,

International Swimming Pool Code was references the 2018 NCBC Section 3109.1, all barrier requirements shall comply with the ISPSC 2015 edition and it is not superseded by section 3109.3.

3109.1 General. The design and construction of swimming pools, spas and hot tubs shall comply with the *International Swimming Pool and Spa Code*® (ISPSC®).

I hope the information above is helpful to you. Please let me know if you have any further questions or require additional information.

Form Supplement to APPENDIX E/ APPEALS - NORTH CAROLINA - BUILDING CODE COUNCIL

Best regards,

Pak Keung Yip, P.E.
Chief Building Code Consultant



N.C. Department of Insurance
Office of State Fire Marshal
1202 Mail Service Center
Raleigh, NC 27699-1202
919.647.0007

Exhibit C: Email 4

From: Michael Carline <mcarline@fourpointslc.com>
Sent: Wednesday, August 30, 2023 4:09 PM
To: Yip, Pak <pak.yip@ncdoi.gov>
Subject: [External] FW: Greenhouse VE Questions

CAUTION: External email. Do not click links or open attachments unless verified. Report suspicious emails with the Report Message button located on your Outlook menu bar on the Home tab.

Hello Mr. Yip

I was referred to you by WC Blalock, Chief Building Inspector in Durham County, to seek a code interpretation on Public Swimming Pools required enclosures.

I am an Owner working on several multi-family projects in Durham and I have been wrestling with the North Carolina Building Code to make sure I understand what the possibilities are for barriers (and openings) around public swimming pools. In my research I come up with a different code interpretation than Mr. Blalock based on the specific citations in the International Swimming Pool and Spa Code (ISPSC).

I am trying to confirm that doors with self-closing and self-latching hardware in barriers (exterior wall with balconies at the level of the pool deck) satisfies the code requirements. My understanding is the ISPSC is the North Carolina Building Code, per 3109.1 and it is not superseded by section 3109.3 Public Swimming Pools which states:

3109.3 Public swimming pools.

Public swimming pools (all occupancies except Group R-3) shall be completely enclosed by a fence or barrier not less than 4 feet (1290 mm) in height or a screen enclosure. Openings in the fence shall not permit the passage of a 4-inch-diameter (102 mm) sphere. The fence or screen enclosure shall be equipped with self-closing and self-latching gates.

This specific section only addresses openings in screens or fences and not barriers however the ISPSC does address how penetrations in barriers can be acceptable and as noted in section 305.4, no. 6, cites self-closing/latching doors appear to be an acceptable alternative.

Can you please review and confirm the State's interpretation of this code issue? I have clipped images of the pertinent code sections below as well WC Blalock's responses for the full context in the chain of emails below including the his reference to you. Apologies for the long chain of emails but just wanted

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to be transparent in all the communication. If you have further questions or require more details about the specific condition please let me know

Warm Regards,
Mike

Michael Carline | Four Points Development LLC | 202.660.8103
1805 7th St nw suite 800 Washington, DC 20001

202.9 Appeals

202.9.1 Engineering Division. A written technical interpretation shall be provided as specified in Section 203.2.1.2. Any person may appeal in writing an order, decision, or determination pertaining to the code or any state building law by filing written notice with the Commissioner of Insurance or his designee within ten (10) days after the order, decision, or determination. A copy of the appeal shall be furnished to each party.

(General Statutes 143-140, 153A-374 and 160A-434)

203.2.1 Interpretations

203.2.1.1 Informal Interpretations. The Engineering Division shall provide informal interpretations on code related matters either by e-mail, letter or telephone. These informal interpretations may be accepted by the local code enforcement official or party requesting the interpretation. Either party may request a formal interpretation of the code.

203.2.1.2 Formal Interpretations. Any person may request in writing a formal interpretation of the code. **The request shall be addressed to the Chief Code Consultant for the Department of Insurance.** The request shall be specific and shall reference the code sections in question. All formal interpretations shall be in writing. A formal interpretation shall be binding on all parties unless appealed to the Building Code Council as specified in Section 201.9.2. Formal interpretations determined to be of a general nature may be posted on the Department website. (General Statute 143-140)

203.2.2 Appeals. Any person may appeal in writing an order, decision, or determination of a code enforcement official pertaining to the code or any state building law. The appeal shall be addressed to the Chief Engineer for the Department of Insurance by filing written notice within ten (10) days after the order, decision, or determination. The appeal shall contain the type and size of the building in question, the location of the building, and shall reference the code sections in question. The decision shall be in writing and shall set forth the facts found. The decision rendered shall be based on the technical provisions of the code, public health and safety and shall be construed liberally to those ends. A decision shall be binding on all parties unless appealed to the Building Code Council as specified in Section 201.9.2. A copy of the appeal and written decision shall be furnished to each party. (General Statutes 153A-374 and 160A-434)

202.9.2 Building Code Council. The Building Code Council shall hear appeals from the decisions of State enforcement agencies relating to any matter related to the code. Any person wishing to appeal a decision of a State enforcement agency to the Building Code Council shall give written notice of appeal as follows:

202.9.2.1 Twenty one (21) copies including an original of the Notice of Appeal shall be filed with the Building Code Council c/o NC Department of Insurance, Engineering Division, 325 North Salisbury Street, Room 5_44, Raleigh, NC 27603 and one (1) copy shall be filed with the State enforcement agency from which the appeal is taken.

202.9.2.2 The Notice of Appeal shall be received no later than thirty (30) days from the date of the decision of the State enforcement agency.

202.9.2.3 The Notice of Appeal shall be legibly printed, typewritten or copied and shall contain the following:

- (1) Name, address of the party or parties requesting the appeal.
- (2) The name of the State enforcement agency, the date of the decision from which the appeal is taken, and a copy of the written decision received from the enforcement agency.
- (3) The decision from which the appeal is taken shall be set forth in full in the Notice of Appeal or a copy of the decision shall be attached to all copies of the Notice of Appeal.
- (4) The contentions and allegations of fact must be set forth in full in a clear and concise manner with reference to the sections of the code in controversy.
- (5) The original Notice of Appeal shall be signed by the party or parties filing appeal.
- (6) The Notice of Appeal shall be received by the first day of the month prior to the Building Code Council's quarterly scheduled meeting in order to be placed on the agenda for that meeting. The Chairman may schedule a special meeting to hear an appeal.

202.9.2.4 Upon the proper filing of the Notice of Appeal, the Building Code Council Secretary shall forward one (1) copy of the Notice of Appeal to each member of the Building Code Council. The Chairman may appoint a Hearing Committee to hear appeals. The Secretary shall send notice in writing to the party or parties requesting an appeal and to the Building Code Council Hearing Committee members at least fifteen (15) days prior to the Hearing Committee meeting. A written decision of the Hearing Committee meeting shall be provided to all Building Code Council Members. The actions of the Hearing Committee shall be final, unless appealed to the full Building Code Council in writing within 30 days of the Hearing Committee's action. If a Hearing Committee consists of at least seven Council members, it will constitute a quorum of the full Council. Further appeals shall be as specified in Section 202.9.3.

202.9.2.5 The Building Code Council shall, upon a motion of the State enforcement agency or on its own motion, dismiss appeals for the following reasons:

- (1) Not pursued by the appellant or withdrawn;
- (2) Appeal not filed in accordance with these rules; or
- (3) Lack of jurisdiction.

202.9.2.6 When the Building Code Council finds that a State enforcement agency was in error in its interpretation of the code, the Building Code Council shall remand the case to the agency with instructions to take such actions as the Building Code Council directs. When the Building Code Council finds on appeal that materials or methods of construction proposed are equivalent to those required by the code, the Building Code Council shall remand the case to the State enforcement agency with instructions to permit the use of such materials or methods of construction. The Building Code Council shall immediately initiate procedures for amending the code to permit the use of such materials or methods of construction.

202.9.2.7 The Building Code Council shall provide a written decision setting forth the findings of fact and the Building Code Council's conclusions to each party or parties filing the appeal and to the State enforcement agency from which the appeal was taken.

202.9.3 Superior Court. Whenever any person desires to appeal a decision of the Building Code Council or a decision of a State or local enforcement agency, he may appeal either to the Wake County Superior Court or the Superior Court of the county in which the proposed building is to be situated in accordance with the provisions of Chapter 150B of the General Statutes.
(General Statute 143-141(d))