

September 2, 2005

To: Senator Jonathan Harris, Co-Chairman
Representative T.R. Rowe, Co-Chairman
Members, Regulations Review Committee

From: Bill Ethier, CAE, Executive Vice President

Re: **Handicap Accessibility Requirements in the Proposed 2005 Connecticut Supplement to the State Building Code – Strongly Urge Approval BUT WITH Deletions**

On behalf of the HBA of Connecticut and its 1,300 member firms, I strongly urge you to approve the proposed State Building Code, including the 2005 Connecticut Supplement, **but with the deletion of certain sections of the 2005 Connecticut Supplement related to handicap accessibility requirements in multifamily housing and townhouse construction. The 2005 CT Supplement's handicap accessibility requirements will severely limit if not stop the construction of multifamily housing and certain townhouse communities.**

Background: There are two major national model building codes that are used in CT. The International Residential Code (“IRC”) regulates the construction of one and two family homes and townhouses. The International Building Code (“IBC”) regulates the construction of all other buildings, including multifamily residential uses. The Connecticut Supplement makes Connecticut specific changes to the IBC and IRC. These codes refer to and adopt by reference other national model codes and construction standards, such as the National Electrical Code and standards produced by the American National Standards Institute (“ANSI”). Together, all the adopted codes, including the CT Supplement, constitute Connecticut’s State Building Code. The national model codes are revised every 3 -4 years and are then considered for adoption in Connecticut by the state.

The Department of Public Safety and the State Codes and Standards Committee is proposing to adopt the 2003 IBC and the 2005 CT Supplement (which would make changes to both the proposed 2003 IBC and the already adopted 2003 IRC – the 2003 IRC became effective in CT on Sept. 1, 2004). See the attached “Background” document for the relevant sections of the underlying model codes and 2005 CT Supplement regarding the accessibility issue.

The Handicap Accessibility Issue: Two sections of the new proposed building code – specifically, the 2005 CT Supplement, section 1107.6.2.1.1 applicable to multifamily construction, and section 1107.7.2 applicable to multistory townhouses – **far exceed the requirements of the underlying national models the CT Supplement would amend and far exceed what other states have done when adopting the IBC and IRC.**

These two distinct code issues are of grave concern to the HBA of Connecticut.

FIRST, for multifamily construction (including apartments, condominiums, etc.), the 2003 IBC would require 2% of the units to be built to Type A standards (fully accessible) and 98% to Type B standards (adaptable; i.e., constructed so that the unit can be converted to an accessible unit), but the 2005 CT Supplement, section 1107.6.2.1.1, would require 20% Type A and 80% Type B units. This is a ten-fold increase in accessible units over the national model code. The U.S. Dept. of Housing & Urban Development has ruled that the 2003 IBC's accessibility provisions meet the accessibility requirements of the federal Fair Housing Act. Most states that have adopted the 2003 IBC have not changed this accessibility requirement and Connecticut's proposal would be far outside the norm. Please note that the CT Supplement will also enhance the Type B adaptable standard, providing more adaptable features than the national standard, and this enhanced Type B standard would NOT be deleted by our request.

The accessibility percentages proposed in the 2005 CT Supplement are excessive. Fully accessible units cannot be marketed to the non-mobility disabled population. The percentage far exceeds the percentage of the population that is mobility disabled. Multifamily builders will simply not undertake construction of apartment and condominium buildings knowing that they will find it very difficult if not impossible to market twenty percent of their units.

The significant decrease in the willingness of builders to pursue multifamily construction would come at a time when Connecticut is facing a severe housing shortage and affordability problem. The increase in Type A unit percentage proposed by the 2005 CT Supplement will do nothing to make these units more affordable to the handicap population, which we believe is the real issue, and would decrease the affordability of all other units. As builders pull out of the multifamily market, it will hamper if not destroy the ability of both our cities as well as small towns who want to provide multifamily housing for their citizens, particularly for both seniors and the young who need this housing the most.

Therefore, we strongly urge you to delete section 1107.6.2.1.1 from the 2005 CT Supplement, which will leave the underlying 2003 IBC accessibility requirements in place for multifamily construction.

SECOND, for multistory townhouse developments (and most townhouses are multistory) the national model codes do not contain any accessibility requirements, but section 1107.7.2 of the 2005 CT Supplement will require that ten percent (10%) of these townhouse units be built to Type B accessible standards on the "street floor." This requirement would apply to any project that contains more than 10 townhouse units in any building or complex (complex is defined in the CT Supplement at section 1102.1.1) so it would be applicable to all except the smallest (10 units or less) developments.

The problem with this requirement is just as significant, if not more so, as the multistory housing requirement above because townhouses, which are in great demand by the public in certain markets, are often built with a garage underneath the "street floor" and the code requires an accessible route from the parking to the street floor

level. The garage, which the market demands, cannot be put on the same level as the “street level” living unit to solve this code-created problem due to development footprint restrictions imposed by local planning and zoning regulations. Therefore, the only way to meet this proposed requirements is to install an elevator in the townhouse, snake a ramp from the garage up to the street level, or somehow create an accessible path to go outside the garage and then up and around to an entry, assuming the outside grade allows for this path. None of these solutions is practical.

Therefore, builders will, again, curtail or simply not build townhouses if they have to put in elevators in ten percent of their units. These units, like the accessible units in multifamily construction above, would be difficult if not impossible to market to the non-mobility handicapped public.

We know of no other state in the country that has varied the 2003 IBC requirements for townhouses. We believe this is an attempt to move towards a goal of the national mobility handicapped community to achieve what is called “visitability” standards in residential construction. That is, the mobility handicapped community desires to require homes that they do not live in to be constructed to accessibility standards so that they can visit friends and family that might live in those other homes. The ten percent townhouse Type B accessibility requirement, which under the proposed CT Supplement is applicable only on the street floor and not other floors of such townhouse units, can serve no other purpose but this “visitability” goal. Builders will build any unit to any accessibility standard if their client so desires, but this requirement should not be imposed arbitrarily on ten percent of the units in these townhouse developments.

Therefore, we strongly urge you to delete section 1107.7.2 (and its subsections 1107.7.2.1 and 1107.7.2.2) from the 2005 CT Supplement.

In conclusion, much work over many years has gone into the massive job of reviewing the model national codes and writing the CT Supplement. We commend the State Building Inspector, Christopher Laux, and the State Codes and Standards Committee for the work they do. We do not want to upset that work by asking the Regulations Review Committee to disapprove the proposed code adoption in total.

Therefore, we urge you to approve the proposed 2003 IBC and 2005 CT Supplement but with the deletion of sections 1107.6.2.1.1 and 1107.7.2 (and its two subsections) related to the excessive handicap accessibility requirements in multifamily and multistory townhouse construction. Deleting these sections will leave in place the accessibility requirements in the underlying national model code as well as other Connecticut specific enhancements to the model code not affected by these deletions.

Thank you for considering our views in this very important matter.

Attachment (Background – relevant building code sections).