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“Is my house up to Code?”

This is one of the most common questions our home and commercial property inspectors are asked when examining a property in the field. While the question is simple and direct, the answer is not. That is because most people are unaware of the purpose behind the building code. Most people make the common mistake of assuming that code compliance means “quality construction.” However, as we shall discover in the discussion below, code and quality can be two very different standards.

What is the purpose behind the building code?

While it is true that quality construction often meets code, the inverse is not. But how can this be? During a recent code inspection certification course, I was thinking about this question as we reviewed the first few pages of the code book where the purpose of the building code is defined.

Page 1 of the International One- and Two- Family Dwelling Code states:

Section 102: PURPOSE, Article 102.1: Minimum Standards.

The purpose of this code is to provide minimum standards for the protection of life, limb, health, property, environment, and for the safety and welfare of the consumer, general public, and the owners and occupants of residential buildings regulated by this code.

Please note the word *minimum* has been underlined for emphasis in the citation above. The purpose of the building code is to provide minimum safety standards, not quality standards. Many homebuyers find this hard to believe. That is why the title of the article found in Code Section 102, is named Minimum Standards.

Please also note that the purpose of this discussion is not to diminish the value or importance of the building code. The minimum standards defined in the building code are a necessary and vital requirement to ensure that residential construction meets a basic safety standard. However, it is important that consumers (and home inspectors) learn to see the building code for what it is – a minimum standard, a basic recipe for making sure that people will not get physically injured and property will not be damaged. It is by no means a guarantee of quality construction or comfort for the occupants of the home.

Case study: The Code-Compliant Kitchen

To better illustrate this point, let's examine a real-life demonstration of this debate between code versus quality. Not surprisingly, a new home buyer wants a good home – one with everything they need for comfort and quality of life. For example, we expect a nice kitchen to include a sink, a range/oven, a refrigerator, and maybe even a disposal, dishwasher, microwave oven, nice countertops and cabinets. Sound reasonable? You bet.

Now let's see what type of kitchen we'll get if all we require of our builder is to meet the code.

Page 18 of the International One- and Two- Family Dwelling Code states:

“Section 306.2: Each dwelling unit shall be provided with a kitchen area and every kitchen area shall be provided with a sink of approved nonabsorbent material.”

Now you might be wondering what happened to the range and refrigerator, not to mention the disposal, dishwasher, countertops and cabinets. The answer is simple: the code doesn't require them. If all you want is a code-compliant kitchen, you only get the sink.

Now who wants a house and a kitchen with nothing more than a sink when normal expectations are much more? No one, of course. However, a house with a kitchen and only a sink is built to code and therefore “yes” is the only answer to the homebuyer's question: “Is my house up to Code?” Obviously, the today's homebuyer wants a code compliant home... and a whole lot more.

Primary Purpose of the Building Code

As we have seen, the stated purpose of the building code is to provide protection of life and property, not necessarily construction quality. In fact, the primary focus of a large section of the building code is to protect other structures in your neighborhood, not necessarily your own. For example, special fire-rated roof shingles are required when a neighboring structure is located less than 3 feet away from your home in order to prevent your home from burning down your neighbor's home. This is confirmed in the International One- and Two-Family Dwelling Code Section 901: GENERAL, Article 901.3: Roofing covering materials, Page 191.

Of course, it can be argued that since your neighbor's home is protected by the type of shingles your home is required to use, the same courtesy is provided to you by requiring the same of your neighbor. Nevertheless, the main point to remember here is the primary purpose of the building code is to prevent disaster.

(Mis)Interpreting the Building Code

As we have seen in the illustrations above, the primary purpose of the building code is to provide a minimum building standard for protecting life and property. However, as we shall soon discover, *interpretation* of the building code by home builders and code enforcement officials in the field can also have a negative impact on a homebuyer's desire for quality construction.

To demonstrate this, I recall another code inspector certification class where the instructor complained that he is often asked to respond to long lists of construction defects uncovered by private home inspectors (such as myself) who are hired by the homeowners to monitor the quality of construction. The code instructor complained that new homeowners do not realize that most construction defects are not, in his opinion, *code* defects.

This disgruntled code instructor went on to site a few examples. According to him, the number one construction flaw he encountered was floors that were not level. He explained how he would receive angry phone calls from new homeowners who wanted him to force the builder to correct uneven or non-level flooring that allow a golf ball (when dropped on the floor) to charge across the floor and slam into the wall. When asked if such uneven flooring was a clear-cut example of poor workmanship, the code instructor readily agreed; however, as he was equally quick to point out, there was nothing in the code book (from a practical point of view) that prevented poor workmanship. In other words, according to this code inspector, poor workmanship was unenforceable by code inspectors.

Amazingly, many of the other code enforcement officers in the class shared this same opinion, poor workmanship is unenforceable by code inspectors. They pointed out that virtually all building plans and specifications clearly spell out requirements that the house be built in a workmanlike manner – meaning in a manner of sound, quality workmanship. However, as these code inspectors quickly pointed out, the home's building plans and specifications are not, by definition, part of the code to be enforced by the code inspector.

Another example that these code inspectors addressed was the subject of roof leaks. One inspector asked the question, “Is there anything in the code that requires the builder to build a roof that does not leak?” The

inspector added: "Because our building department could not find anything in the code that required the builder to fix a leaky roof." However, not one code inspector in the class could recall any section in the code addressing the subject of roof leaks. There were sections and articles concerning roof rafters, trusses, coverings, and so forth – yet not a word about leaks. Bottom-line: a code compliant roof, in the opinion of these professional code inspectors, was not necessarily a watertight roof.

Additionally, another local code inspector recounted how he cited a homebuilder for not providing proper attic ventilation only to have his boss override the citation. The builder had failed to provide a way for hot air to escape from the attic as it piled up against the top of the roof from the inside of the attic. However, this local code inspector's boss interpreted the code in a manner that did not require proper ventilation of the attic.

Enforcing the Building Code

As previously discussed, the minimum standards of the building code are intended to provide for the protection of life and property, not good design, convenience, or comfort. We also learned how interpretations (and misinterpretations) of the code could further hamper the homebuyer's desire for quality construction. However, in this section we turn our attention to how the code is actually enforced.

Enforcement involves the everyday practical application of the code in the field. Regrettably, the everyday performance of the code inspector can be impaired by physical restraints, local building practices, material availability, and local politics.

The problems of enforcement get murkier when the homebuilder is the mayor's brother or in some cases the mayor himself. Politics, as we know, permeate all aspects of life and business, and the arena of code enforcement is no exception. Local builders with good intentions but who wish to save money by keeping from doing work twice, often pressure inspectors to except deviations. Other groups, such as architects and engineers interested in increasing their bottom line with more work thrown their way, also pressure code inspectors in the field.

For example, Table 602.3 (1): Fastener Schedule for Structural Members, page 89 of the International One- and Two- Family Dwelling Code gives a detailed description of the type of nails to be used for building connections. Ceiling joist to plate connections require three (3) eight-penny common nails and ceiling joist laps over partitions must be face-nailed with four (4) eight-penny common nails and so forth. This all seems straightforward and relatively simple for the code inspector to enforce. Yet these simple requirements are often not enforced as code inspectors accept second best.

Enforcement of the nail schedule requirement of the code is fairly simple: all the code enforcement officer has to do is count the number of *common nails* driven into the joists. If the homebuilder has done his job correctly, it passes. If not, the job fails, a citation is issued, and the trouble is corrected and re-inspected to verify compliance with the code. However, homebuilders seldom use *Common Nails*, substituting *Sinker Nails* that are not as thick as Common Nails, but "nearly as good." Why? Because sinker nails are easier to come by – and cheaper.

Now before we accept nails that are "nearly as good," we must not lose sight of the fact that the purpose of the building code is to provide minimum standards. Therefore, when builders make substitutions in the field, they are no longer meeting the minimum standard – which means they are building a sub-standard home.

Code inspector workload is another outside influence that can negatively affect enforcement of the building code. When code inspectors get overloaded during periods of heavy construction activity, it becomes very difficult, if not impossible, to keep up with demand. The axiom, necessity is the mother of invention certainly applies to code inspections. As a result, one Florida county building department solved their overload problem by requiring the homebuilder to issue a simple letter stating that they had installed the proper amount of insulation in the attic crawlspace in lieu of the code inspector actually going to the building construction site to verify that it had been done. The result: when homeowners try to resell homes to the next person is that private home inspectors discover empty attics devoid of insulation. The contractor never installed the insulation and

the code inspector never inspected the contractor's work. He took his word for it. Clearly, the letter solution does not work.

Another example is a Florida County giving builders a Certificate of Occupancy before the house is done. As a result, private home inspectors often encounter homebuilders who insist that homebuyers accept uncompleted work because they have been issued the *Certificate of Occupancy*. Not so surprisingly, and most tragically this tactic is very effective with younger, first-time homebuyers.

In summary, a code inspection is based on a compilation of minimum building standards with no assurance of quality. Additionally, the effectiveness of the code inspection is diluted by unsound interpretations, politics, workload, and availability of the proper building materials. As discussed above, by definition the minimum standards of the building code are intended for the protection of life and property – not good design, quality, convenience, or comfort.

So the next time you find yourself asking the question, "Is my house up to Code?" You have a better understanding why you might want to ask for just a little bit more.