



EGRESS REQUIREMENTS IN EXISTING HOMES

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You represent a client who is interested in purchasing an existing home for rental as a single-family dwelling. The windows in the sleeping areas located in the home do not comply with the current International Building Code or International Residential Code because they are unsuitable for egress. Do current building codes require that your client replace these windows with ones that offer a viable means of egress? Probably, as a home that is unsafe due to inadequate width of exits or other conditions that are dangerous to human life will be deemed substandard, and must be repaired, rehabilitated, or demolished according to the International Building Code (“IBC”) and International Residential Code (“IRC”).¹

Regarding most single-family residential structures, the IRC details the requirements for emergency escape and rescue openings:

[E]very sleeping room shall have at least one openable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, emergency egress and rescue openings shall be required in each sleeping room . . . [E]mergency escape and rescue openings . . . shall have a sill height of not more than 44 inches (1118 mm) above the floor . . . [,] shall have a minimum net clear opening of 5.7 square feet . . . [,] minimum net clear opening height [of] 24 inches . . . [,] minimum net clear opening width [of] 20 inches . . . [and] shall be operational from the inside of the room without the use of keys or tools.

International Residential Code §§ R310.1.0-4 (2003). Application of the IRC includes the use and occupancy of “detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with a separate means of egress and their accessory structures.” *IRC* at § R101.2.

The Uniform Housing Code (“UHC”) applies to “all buildings or portions thereof used, or designed or intended to be used, for human habitation”, Uniform *Housing Code* § 103 (1997) and, consequently, governs the example given above. The UHC expressly addresses the problem of inadequate exits:

Notwithstanding compliance with code requirements in effect at the time of their construction, buildings or portions thereof shall be considered substandard when the building official finds that an unsafe condition exists through an improper location of exits, a lack of an adequate number or width of exits, or when other conditions exist that are dangerous to human life.

UHC at §1001.12. Under this provision, the home in the example above is virtually certain to be considered substandard since the windows in this example are not a viable means of egress, create a condition dangerous to human life, and are located in at least one area used for sleeping.

What, then, is the result of a home being designated as substandard? Under the UHC, “occupancies in existing buildings may be continued . . . except such structures as are found to be substandard as defined in this code.” *Id.* at § 103. The UHC declares that substandard buildings are

¹ For purposes of this Legal Lines article, it is assumed that the applicable jurisdiction has adopted the International Building Code, the International Residential Code and the Uniform Housing Code.

“public nuisances,” and “shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in Chapter 11 of this code.” *Id.* at § 202; *see also id.* at § 1103.

Chapter 11 of the UHC indicates that enforcement proceedings will not commence until a building official has inspected the home and found it to be substandard. *Id.* at § 1101.1. This suggests that an inspection is unlikely unless the owner tries to add a sleeping room. However, it should be noted that the IBC and IRC give the building inspector right of entry where:

[I]t is necessary to make an inspection to enforce provisions of this code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this code which makes the premises unsafe, dangerous or hazardous.

IBC at § 104.6; *IRC* at § R104.6. Presumably, a phone call from a tenant could constitute “reasonable cause” for inspection.

If enforcement proceedings have been instituted, an owner should expect a “Notice and Order” that will describe the dangerous condition, and the required action as determined by the building official. *UHC* at § 1101.2. Repair and demolition orders both require work to commence within 60 days, and will specify a date of completion. *Id.* Anyone refusing to comply with the order of a building official is guilty of a misdemeanor. *Id.* at § 1401.1. Faced with failure to obey an order, the building official may “cause such person to be prosecuted under Section 1401.1,” or “institute any appropriate action to abate such building as a public nuisance.” *UHC* at § 1401.2. The IBC and IRC allow for modifications for individual cases where “there are practical difficulties involved in carrying out the provisions” of these codes. *IBC* at § 104.10; *IRC* at § R104.10.

Based on the foregoing, agents who represent clients who are interested in property where the sleeping areas may not provide adequate egress should discuss with these clients the potential lack of compliance with current codes and the implications if (1) the owner tries to add a sleeping area and applies for a building permit, (2) a building official conducts a random inspection, or (3) tenants of the property register a complaint with the appropriate authorities.

This article is intended to provide a general overview of the law. It is neither intended as an exhaustive report on the law or as legal advice on any particular situation and should not be used as a substitute for legal counsel.