

STATE BUILDING CODE INTERPRETATION NO. I-33-00

April 28, 2000

The following is offered in response to your memo in which you request interpretations of section 310.0 of the BOCA National Building Code/1996 portion of the 1999 State Building Code. Your specific area of concern is the differentiation between accessory (in-law) apartments and two-family dwellings.

Question 1: Can a single-family dwelling have more than one kitchen and bathroom for use by relatives or boarders?

Answer 1: Yes.

Question 2: Would a one-hour fire separation be required if an addition to a single-family dwelling were built for the purpose of an in-law apartment?

Answer 2: Not if the occupants of the apartment were related to the occupants of the main dwelling, or were, in number, fewer than seven lodgers or boarders, *and* the layout of the apartment were such that there was commonality with the main dwelling. The code, at section 310.5 allows any number of family members, including up to six lodgers or boarders, to live together in a single-family dwelling. The code, as stated above, does not prohibit multiple bathrooms, kitchens, or for that matter, living or sleeping rooms. However, the physical layout must be conducive to interconnection between all rooms in the dwelling unit. If, for instance, it is necessary to leave the main dwelling, and travel out of doors to reach the apartment, such layout would not constitute a single-family dwelling, but rather a two-family dwelling, requiring a dwelling unit separation in accordance with Table 602.

Question 3: If a one-hour separation were required for the in-law apartment, would the in-law apartment require a separate metered electric service and electrical panel?

Answer 3: If it were determined, using the criteria in answer 2, that a two-family dwelling had been created, separate electric service metering and a separate electric panel would be required.

Question 4: Is a connection required between the main dwelling and the in-law apartment?

Answer 4: As stated in answer 2, a physical connection between the main dwelling and the apartment would have to exist for the apartment to be considered part of the single-family dwelling. Absent the physical connection, the building would be considered a two-family dwelling.

Question 5: What is the difference between an accessory apartment and an in-law apartment?

Answer 5: The State Building Code does not recognize either term. There may be a difference in the eyes of local zoning, which is outside the purview of this office.

Question 6: At what point would a dwelling be considered a two-family dwelling?

Answer 6: The code defines a two-family dwelling as a building containing two dwelling units. Dwelling unit is defined as a single unit providing complete *independent* living facilities for one or more persons. Since it has been determined in answers one and two above that a single-family dwelling can have more than one bathroom, kitchen, living room and/or bedroom, the answer lies in the code's use of the word independent. Once two sets of living facilities are independent from each other, a two-family dwelling has been created.