

**Department of Licensing & Regulatory Affairs
Bureau of Construction Codes
Keith E. Lambert, P.S., Acting Director (#2183)**

Uniform Code Application

BCC Course #CP-16-00001

October 14, 2016

1:00-4:00 - Administration

GOALS

1. **TRANSITION, VISION & PHILOSOPHY**
2. **SCHOOL SITE PLAN AUTHORITY**
3. **BARRIER FREE VS. CODE APPEAL**
4. **CONSTRUCTION CODE AUTHORITY**
5. **CORRECTION VIOLATIONS**
6. **Q & A**
7. **PRESENTATION & CONTACT INFO**



TRANSITION

- BCC Organizational Layout
 - Administrative Services Division (new)
 - Boiler/Elevator Division (combined)
 - Building Division
 - Electrical Division
 - Licensing & Complaints Division (new)
 - Mechanical Division
 - Office of Land Survey & Remonumentation
 - Permits & Plan Review Division (combined)
 - Plumbing Division



TRANSITION

- Structure – Roles & Contact Info
- Trade divisions – code inspections & enforcement
- Plan review/permit – all trade disciplines
- L&C – license issuance, renewals, & action
- A/S – budget, staffing, rules, B&C support
- OLSR – land survey corners, plats, & AOA's



VISION

-
- Accela
 - First phase complete
 - [e-PlanCheck](#)
 - [Permits](#)
 - [Licensing](#)
 - Second phase underway
 - Complaints
 - Act 54 training
 - AOA's
 - Elevator permits & inspections



VISION

-
- Accela
 - FAQ'S & How to use
 - Register for an account
 - Email address necessary
 - Contact information database (login credentials)
 - User controlled
 - Connecting your license or registration
 - Linking contact information data to licensing/registration data
 - Authority controlled
 - Applying for license
 - Process for license examination & registration



VISION

• Accela

- What are the benefits for users? (Time savings)
 - Allows licensees, local units of government, owners, & the public the ability to conduct business 24/7/365 with BCC
 - Plan review submittals, permit, exam & license applications, and renewals can be filed online and paid simultaneously with a credit card
 - Licenses, registrations, and permits can be emailed
 - Complaints against licensees can be filed online anonymously
 - Statuses of licenses, registrations, and permits can be checked
 - Details available to license, registration, and permit holders (account necessary)



PHILOSOPHY

- Goal Driven & Accomplishment Minded
 - Engage customers, industries, and stakeholders
 - Seek valuable insight from experts
 - Work with stakeholders on impactful changes
 - Educate and train interested parties
 - Communicate with associations, boards, & commissions
- Notable Changes
 - [FOIA requests](#)
 - [List requests](#)



SCHOOL SITE PLAN AUTHORITY

- Initial stages of addressing issue
 - Internal discussions
 - Stakeholder outreach
 - Gather data and determine impact
 - Make appropriate determination
 - Communicate with interested parties
 - Implement change



SCHOOL SITE PLAN AUTHORITY

- What have we learned?
 - Site plans are required for submittal to the AHJ
 - [MCL 380.1263\(3\)](#) & [MCL 388.851b\(5\)](#)
 - Site plans are limited to locations of buildings & structures on same premises
 - [MCL 125.1510\(1\)](#)
 - Site plans need to be submitted to the local zoning authority for high school buildings with athletic fields within townships
 - [MCL 380.1263\(4\)](#) & [HB 5479 HFA](#)



SCHOOL SITE PLAN AUTHORITY

- What have we learned?
 - Local Zoning Authority is merely advisory and solely for informational purposes
 - [MCL 380.1263\(6\)](#) & [HB 5479 HFA](#)
 - Local Zoning Authority would only have to be notified for high school building construction within a township
- If significant impact, how best addressed?
 - Statutory changes/code update



BARRIER FREE VS. CODE APPEAL

- Initial stages of addressing issue
 - Internal discussions
 - Stakeholder outreach
 - Gather data and determine impact
 - Make appropriate determination
 - Communicate with interested parties
 - Implement change



BARRIER FREE VS. CODE APPEAL

- What have we learned?
 - Administrative authority is vested in the state or local unit of government issuing building permits
 - [MCL 125.1353](#)
 - Barrier free design means design (not constructed) in and around a building, structure, or improved area
 - [MCL 125.1351\(b\)](#)
 - Improved areas include parking lots, parks, beaches, etc.
 - [MCL 125.1351\(e\)](#)

BARRIER FREE VS. CODE APPEAL

- What have we learned?
 - 50% is a magic number for an existing facility
 - [MCL 125.13532](#)
 - 2012 Rehabilitation Code provides direction
 - [2012 Rehab Code](#)
 - A106.2.1 requires construction documents to be of sufficient clarity to be determined by the code official and the work area to be shown
 - Work area includes all reconfigured spaces indicated on the construction documents



BARRIER FREE VS. CODE APPEAL

- What have we learned?
 - Questions arise concerning the level of alteration
 - Level 1, 2 or 3?
 - [MCL 125.13532](#)
 - When does the Construction Code Act come into play triggering a code appeal?
 - After construction [MCL 125.1514](#) & [MCL 125.1516](#)
 - The appeals process needs to be followed before a complaint is filed with the Barrier Free Design Board



BARRIER FREE VS. CODE APPEAL

- What is the impact and how is it best addressed?
 - Education/training
 - Statutory changes
 - Code amendment

CONSTRUCTION CODE AUTHORITY

- [MCL 125.1528](#) – Code Administration
 - Associated Statutes
 - 1956 PA 217 – Electrical Contractor Licensing
 - 1966 PA 1 – Utilization of Public Facilities
 - 1984 PA 192 – Mechanical Contractor Licensing
 - 1986 PA 54 – Code Official/Inspector Licensing
 - 1987 PA 96 – Mobile Home Park Licensing
 - 2002 PA 733 – Plumbing Contractor Licensing
 - Associated Construction Codes & Licensing Rules



CONSTRUCTION CODE AUTHORITY

- GOAL & MISSION OF THE CONSTRUCTION CODE ACT
 - Single state code
 - Promote uniformity and consistency for practitioners
 - Follow code & honor commission approved products
 - Eliminate restrictive, obsolete, and conflicting regulations
 - [MCL 125.1504\(3\)\(d\)](#)
 - Promote participation of interested parties
 - [MCL 125.1504\(4\)](#)



CONSTRUCTION CODE AUTHORITY

- CODES CURRENTLY ENFORCED & PROPOSED
 - [Michigan Construction Codes](#)
- LIMITS OF AUTHORITY GRANTED IN ADMINISTERING AND ENFORCING CODES (RULES)
 - Administrative Procedures Act, 1969 PA 306 governs authority
 - Agency & Guideline defined
 - » [MCL 24.203](#)



CONSTRUCTION CODE AUTHORITY

- Administrative Procedures Act
 - Rule (Code) defined
 - Forms, interpretations & guidelines have no force and effect of law and are merely explanatory
 - » [MCL 24.207](#)
 - Limitation on rule-making delegation
 - Memorandums & bulletins are advisory
 - Codes (rules) cannot exceed the statutory authority granted
 - » [MCL 24.232](#)



CONSTRUCTION CODE AUTHORITY

- GOVERNMENTAL LIABILITY (IMMUNITY)
 - Where does it begin and end?
 - Generally, all government agencies are immune from tort liability for action taken in furtherance of a governmental function.
 - Generally, no liability attaches to those members of an agency engaged in the exercise or discharge of their governmental function
 - Members acting outside their governmental functions and official duties may forfeit the shield of governmental immunity

» [MCL 691.1407](#)



CONSTRUCTION CODE AUTHORITY

- How to avoid liability?
 - Adhere to the law and limitations of authority granted by legislature
 - **DOCUMENT! DOCUMENT! DOCUMENT!**
 - » Violations need to be in writing
 - » Regulations need specificity
 - » Violations need to be issued
 - Verbal direction
 - » Perception 1 – customer friendly
 - » Perception 2 – arbitrary and capricious



CONSTRUCTION CODE AUTHORITY

- Exclusion of state construction code authority
 - Institutions of higher learning (universities)
 - [MCL 125.1508b\(8\)](#)
- Permit authority. What does that mean?
 - Permit grants permission to applicant
 - It does not guarantee or bind the applicant to perform
 - It is a simple form of authorization



CONSTRUCTION CODE AUTHORITY

- Permits obtained by a homeowner
 - Must ownership documentation be provided?
 - » No
 - May a properly licensed individual perform work under a permit obtained by a homeowner?
 - » Yes
 - Why?
 - There may be instances where an owner gets in over their head and needs a professional
 - » [MCL 125.1510](#)



CONSTRUCTION CODE AUTHORITY

- Permits obtained by a homeowner
 - Isn't that illegal for someone else to perform work under a homeowner permit?
 - » Yes & No
 - No, if the individual is properly licensed to perform the work
 - Yes, if the individual is not properly licensed (unlicensed contractor, handyman, etc.)
 - » [MCL 125.1510](#) & [MCL 125.1523a](#)



CONSTRUCTION CODE AUTHORITY

- [MCL 125.1512](#) – Inspection authority & responsibility
 - Permit
 - Owner consents to premise being inspected
 - Construction contrary to a permit or no permit
 - Violation notification and notice to stop construction order
 - Failure to show good cause
 - Stop construction order issued



CONSTRUCTION CODE AUTHORITY

- [MCL 125.1514](#) – Appeals of Decisions
 - Governmental subdivision must have construction board of appeals
 - Interested party may file an appeal in writing (no application or form is necessary)
 - Failure by the board to hear appeal within 30 days of submission allows the construction code commission to hear appeal



CONSTRUCTION CODE AUTHORITY

- [MCL 125.1516](#) – Appeal to the commission
 - Interested party may appeal board decision
 - Within 10 business days after filed decision
 - Or for failure of board to act within prescribed time



CONSTRUCTION CODE AUTHORITY

- [MCL 125.1520](#) – Assistance
 - Enforcing agency may request
 - Please be proactive
 - Department may grant
 - May be based upon:
 - Project specific
 - Plan review/inspection only
 - Conflict of interest
 - Other factual circumstances



CONSTRUCTION CODE AUTHORITY

- [MCL 125.1523](#) – Unlawful Conduct (action subject to a misdemeanor and \$500 fine)
 - Violation of the act, code, or rules
 - Building in violation of a condition of a permit (???)
 - Failure to comply with an order
 - Issues certificate, permit, or license in violation of act or other applicable laws
 - Conceals violation of act or other applicable laws



CONSTRUCTION CODE AUTHORITY

- [MCL 125.1523](#) – Unlawful Conduct (cont.)
 - Complaint filed concerning performance evaluation (MCL 125.1509b) may lead to unlawful conduct finding of an official/inspector
 - Violation of the act, rules, or code by a registrant could lead to revocation of registration by the commission [MCL 338.2309](#)



CONSTRUCTION CODE AUTHORITY

- Registration of Mechanical Contractors
 - Fee shall not exceed \$15 for the licensing cycle (3 years)
 - Physical license is not required by statute
 - On-line license acceptable (more reliable & reduces fraud)
 - Registration shall be granted upon payment
 - [MCL 338.983](#)
 - Properly licensed contractor shall not be prohibited from engaging in work
 - [MCL 338.979](#)



CONSTRUCTION CODE AUTHORITY

- How do we prevent bad behavior & bad actors?
 - Foster relationships with the trades
 - Stay abreast of the current codes
 - Administer and enforce with impartiality and without bias
 - Maintain consistent procedures
 - Follow up consistently on correction violations
 - [Draft procedure](#)



INFORMATION

- Presentation & material available on request
- Contact Information:
 - lambertk@michigan.gov
 - Bureau (517) 241-9302
 - 1st Floor Ottawa Building
 - 611 W. Ottawa St.
 - Lansing, MI 48933

