

Keith R. Pavlack, Esquire
1415 Blakeslee Blvd. Dr. E.
Lehighton, PA 18235

Since the adoption of the Uniform Construction Code, by the Commonwealth of Pennsylvania, I have been involved with a number of disputes, on behalf of my clients, with regard to the interpretation of the Code by the local code enforcement officers.

Usually, the disputes revolve around the renovation of existing buildings. The local code enforcement officer has demanded from my clients renovation that have been prohibitively expensive in comparison to the small renovation that business owners have wanted to accomplish.

I feel that the code enforcement officer's actions have had a chilling effect on small business in Carbon County.

In September 2013 my client was approached by a television producer seeking to film a reality television show centered around the makeover of a biker bar. It was explained to my client that the producers would provide material and labor to repair and redecorate the bar at no cost to my client. The work to be completed would entail new flooring, wall covering and perhaps some new furniture, equipment or fixture, if the budget allowed. The bar would be required to close for a period of 3-4 days to complete the work. The work would be filmed. The owner would not be permitted to see the property until all of the work was completed. Upon completion of work, the bar would be revealed to the owner.

I was retained to review the contract with the producers. I discussed with my client work that can be done that does not require a permit. I expressed to him that the Code Enforcement Officer he would be dealing with has a reputation for being difficult. I told him of my prior dealings and he agreed that it would be best to limit the scope of the work to obviate the necessity of a permit.

“Painting, papering, tiling, carpentry, cabinets, countertops and similar finishing work.”

My client agreed with the producer that the scope of the work would be limited to painting, papering, tiling, carpentry, cabinets, countertops and similar finishing work. The producer did not reveal the budget that they had to complete the work.

The producers contacted the Franklin Township Code Enforcement Officer to confirm that no permit would be necessary. He told them that a permit would be required. He advised the producers, based upon a budget of \$20,000.00, that 20% must be used to provide handicapped accessibility. He also advised that a permit would be necessary. This was despite the fact that no plan or scope of work was presented to the Code Enforcement Officer.

The producers hired a contractor to perform the work and the contractor, through communicating with the Code Enforcement Officer, agreed that they would apply for the permit and would place a ramp at the front of the premises to comply with the Code Enforcement Officer's demand that 20% of the budget be spent on handicapped accessibility.

My client was advised that permits would be obtained and that the scope of work would be smaller since the Code Enforcement Officer was requesting a concrete ramp be placed at the front of the building. I again counseled my client that no building permit was necessary, but the contractor would not agree to perform any work because of the Code Enforcement Officer's demands.

If the scheduling of the filming of the show was not at issue, I would have appealed the Code Enforcement Officer's decision that a permit was needed at that point. However, based upon the time constraints, the producer and contractor decided to apply for a permit and work with the Code Enforcement Officer to get the project completed.

Plans were drawn up that included the ramp demanded by the Code Enforcement Officer. A small change was proposed to the bar, and a small countertop, but the Code Enforcement Officer was of the opinion that those changes would make the project a level 2 remodel. The plans were revised and submitted.

The Code Enforcement Officer came to the project site and determined that the building was uncertified. He commenced reviewing the entire premises and required a substantial amount of work would be required including:

Emergency lighting

Interior building railings be raised with plexiglass

Exterior railing be installed

Wire screen be placed over a window that was near stairs

Because of the demands that the Code Enforcement Officer was making, local businesses and the Carbon Builders Association volunteered assistance to make sure that the work could be completed in the tight schedule. The producers completed the work that the Code Enforcement officer demanded.

Upon completion of the work the Code Enforcement Officer issued an occupancy permit, limiting the maximum number of occupants to 55 people. This was based upon calculations done by the Code Enforcement Officer utilizing the IBC and the IEBC.

After the filming of the work and the revealing of the redecorated premises to the owner of the establishment, the owner filed an appeal of the Code Enforcement Officer's decisions.

The appeal was heard in Franklin Township by the UCC Joint Appeals Board.

The owner was required to hire an architect to testify on his behalf at the appeal hearing.

The Board listened to the owner's entire appeal, but found that most of the issues had been waived for the work had already been performed. The Board did address the maximum occupancy issue and raised the maximum occupancy to 100 persons. This was based upon the Code Enforcement Officer's testimony that the IBC required a sprinkler system to be installed if the occupancy was 100 or more.

The owner appealed the decision to the Court of Common Pleas of Carbon County, the Honorable Roger Nanovic presiding.

The owner limited his appeal to Common Pleas Court to the issue of the maximum occupancy.

The Court found that the decision of the UCC Board was deficient and remanded the case back them for further findings.

The UCC Board then applied the IEBC to determine that no sprinkler system was required and the maximum total occupancy of the premises be 125 persons.

I feel that House Bill No. 782 is necessary in order to level the playing field for small business. The requirement of additional code enforcement officers in each township will insure that business owners have a choice.

I believe that the adherence to the Uniform Construction Code keeps us all safe in our homes and in the businesses that we frequent on a daily basis. However, especially when it comes to the renovation of existing buildings, a myriad of interpretations can be made for each portion of the Code. My client's don't seek to avoid the Code, but they ask that they not be required to rebuild their entire establishment when pulling a permit for a small renovation.

The next time that my client wishes to do any construction work, he will be at a disadvantage if Franklin Township is only required to have one Code Enforcement Officer.