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**STATE CONSTRUCTION CODE ACT:** Responsibility for administration and enforcement of the State Construction Code Act and the State Construction Code.

**STATE CONSTRUCTION CODE ACT:** Enforcing agency to examine building permit applications for conformity with the State Construction Code Act, the State Construction Code and other applicable laws and ordinances.

**BUILDING PERMITS:** Conformity of building permit applications with the State Construction Code Act, the State Construction Code and other applicable laws and ordinances.

An application for a building permit shall be examined by the enforcing agency and a permit issued if the application conforms to the State Construction Code Act, the State Construction Code and the requirements of other applicable laws and ordinances.

To ascertain applicability, reference should be made to the purposes, intents and objectives of the State Construction Code Act, the State Construction Code and the other laws and ordinances to determine their relevancy and pertinency to each other, or whether by their respective provisions they are expressly brought into contact with each other.

Opinion No. 4915

January 12, 1976.

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You have requested my opinion regarding certain provisions of the State Construction Code Act of 1972, 1972 PA 230, MCLA 125.1501 *et seq.*; MSA 5.2949(1) *et seq.* Your question is as follows:

"Whether the enforcing agency under the Michigan Construction Code Act of 1972 has the right to require from the applicant prior to issuing a building permit, that the applicant has obtained other permits (land use, septic, driveway, soil erosion and sedimentation, and well permits) as may be required by other units of County Government and Township Government?"

Pursuant to 1972 PA 230, § 8; MCLA 125.1508; MSA 5.2949(8), the State Construction Code Act and the State Construction Code, which was promulgated under the Act and became effective November 6, 1974, are applicable throughout the state except that cities, villages or townships may elect to exempt themselves from the Act and Code by adopting and enforcing a nationally recognized model building code. However, it is noted that the election of exemption does not apply to rules promulgated to implement 1972 PA 230, § 19; MCLA 125.1519; MSA 5.2949(19) (premanufactured units) and 1972 PA 230, § 21; MCLA 125.1521; MSA 5.2949(21), (petitions for approval of particular materials, products and methods), or to the

barrier free design requirements of the State Construction Code. In Livingston County, the cities of Brighton and Howell and the Township of Green Oak exempted themselves from the Act and Code by adopting the Building Officials and Code Administrators (BOCA) Basic Building Code, 1970 Edition with 1973 Accumulative Supplement. In all other areas of Livingston County, the State Construction Code is applicable.

Responsibility for the administration and enforcement of the State Construction Code is provided for in 1972 PA 230, § 9(1); MCLA 125.1509(1); MSA 5.2949(9)(1):

“Except as otherwise provided in this section, a county is responsible for administration and enforcement of this act and the code throughout the county. A city or village may by ordinance assume responsibility for administration and enforcement of this act in the city or village. A township may by ordinance assume responsibility for administration and enforcement of this act throughout the township, except in cities or villages. Unless otherwise provided by local law or ordinance, the legislative body of a county, city, village or township responsible for administration and enforcement of this act shall designate an enforcing agency that shall discharge the responsibilities of the county, city, village or township under this act. Counties, cities, villages or townships may provide by agreement for joint enforcement of this act. Subject to the other provisions of this act, an enforcing agency may be any official or agent of a county, village or township.”

1972 PA 230, § 2(1)(1); MCLA 125.1502(1)(1); MSA 5.2949(2)(1)(1), provides that:

“‘Enforcing agency’ means the enforcing agency which in accordance with section 9, is responsible for administration and enforcement of this act within a governmental subdivision.”

As provided in 1972 PA 230, § 9(1); *supra*, the Townships of Brighton and Hamburg have assumed by ordinance the responsibility for administration and enforcement of the Act and Code in their respective townships. Livingston County remains responsible for enforcement and administration of the Act and Code in all other areas of the County with the exception of Howell, Brighton and the Township of Green Oak which, as mentioned above, have adopted a nationally recognized model building code and thereby exempted themselves from the Act and Code.

Building permit applications must be submitted to the appropriate enforcing agency pursuant to 1972 PA 230, § 10(1); MCLA 125.1510(1); MSA 5.2949(10)(1), before construction of a building or structure is commenced.

Relative to building permit applications, 1972 PA 230, § 11(1); MCLA 125.1511(1). MSA 5.2949(11)(1), provides, in part, that:

“The enforcing agency shall examine an application for a building permit. If the application conforms to this act, the code *and the requirements of other applicable laws and ordinances*, the enforcing agency shall approve the application and issue a building permit to the applicant.” (emphasis added)

"Other laws and ordinances" are defined in the Act:

"'Other laws and ordinances' means other laws and ordinances, whether enacted by this state or by a county, city, village, or township and any rules issued thereunder." [MCLA 125.1502(1)(p); MSA 5.2949(2)(1)(p)]

When a building permit application has been submitted to the appropriate enforcing agency, whether county, city, village or township, the enforcing agency examines the application; and a building permit is issued if the application conforms with the State Construction Code Act, 1972 PA 230; *supra*, the State Construction Code and "other applicable laws and ordinances". It is noted that in addition to conforming with the requirements of the Act and Code, 1972 PA 230, § 11(1); *supra*, provides that the requirements of "other applicable laws and ordinances" must also be satisfied before a building permit is issued.

Although very broadly defined in 1972 PA 230, § 2(1)(p); *supra*, "other laws and ordinances" is limited in 1972 PA 230, § 11(1); *supra*, by use and interjection of the adjective "applicable". Clearly then, it is intended by the legislature that the requirements of "other laws and ordinances" must be met prior to approval of a building permit application only if they are "applicable". The question then becomes: What, if any, are the other "applicable" laws and ordinances? The word "applicable" has been defined:

". . . as meaning appropriate, fit, pertinent or suitable; capable of being applied. It is a term of description not limitation. The word is said to be capable of two meanings, either 'relevant', as sometimes defined, or, as more commonly understood, 'to bring into actual contact with', the meaning in a particular case depending on the context." [6 CJS, Applicable, p 99]

Whether other laws or ordinances are "applicable" would also depend upon the purposes, intents and objectives of the other laws or ordinances vis-a-vis the purposes, intents and objectives relative to building permit approval; that is, a demonstrable nexus in the above context between building permit requirements and permit requirements of other laws or ordinances:

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*Attorney General.*