

TEXAS RESIDENTIAL CONSTRUCTION COMMISSION

QUESTIONS REGARDING COUNTY INSPECTION PROGRAM

Changes in title 16 of the Property Code that became effective on September 1, 2008, require that builders and remodelers who undertake certain residential construction projects in areas outside municipalities have those projects inspected at several stages of construction. This requirement for interim construction inspections, which are similar to the code compliance inspections required on residential projects built within most municipalities, provides homebuyers and homeowners who live outside municipalities the same level of assurance of quality construction that those with construction projects subject to municipal inspections enjoy. Because this requirement is new for construction outside municipalities, the Texas Residential Construction Commission (commission) anticipates that some builders and remodelers will either be unaware of the requirement at the time of construction or may forget to have a phase inspection performed before moving to the next phase of construction.

New home construction must have an inspection prior to the pouring of the foundation, prior to the installation of wall coverings for plumbing, electrical and mechanical inspections, and at the substantial completion of the project. For remodeling projects and material improvements, inspections are required for the same phases to the extent that the inspection is applicable to the work performed. For the phase inspections that are performed before completion of the project, it can be difficult to access or view the relevant components to determine whether they were correctly installed.

At its meeting in December, 2008 the commission approved the following disciplinary guideline for builders and remodelers that fail to conduct county inspections at the appropriate stages of construction. The issue for which the commission is now seeking guidance is for measures that would be required of the builder/remodeler in addition to any disciplinary action taken.

Penalty Matrix

The following penalty matrix will guide disciplinary action in the event a builder/remodeler neglected to perform inspections, and was forthcoming about the oversight. If a builder/remodeler attempts to hide the oversight by providing false information at registration and the commission discovers the violation, this penalty matrix does not apply.

1. ^{1st} Offense—Warning—The commission will send a letter notifying builder/remodeler of program with a link to Web site and a copy of law. The homeowner will receive a letter from the commission stating that builder/remodeler did not comply with the County Inspection Program and that the home should have received a minimum of three inspections.
2. ^{2nd} Offense—Fine—The commission will commence a disciplinary action for failure to comply with the County Inspection Program and will impose a fine of \$5000 per project on the builder/remodeler.
3. ^{3rd} Offense or more—Fine— The commission will commence a disciplinary action for failure to comply with the County Inspection Program and will impose a larger fine of up to \$10, 000 per project on the builder/remodeler and possibly suspend or revoke the registration certificate.

Therefore, the commission is studying the issue of what can be done to provide a homebuyer or homeowner with some level of assurance that a home has been built in accordance with applicable construction codes when an inspection was not performed timely. The commission is seeking input

from industry professionals and consumers who may have suggestions that will guide the commission's proposed response to this dilemma. Some thoughts are indicated by the questions below. Other ideas may include requiring the builder to pay for an independent inspection to be conducted near the end of each warranty period and an agreement to repair any construction defects identified by that inspector, or like remedies that offer the homeowner some assurance.

(1) When the lack of an inspection involves the foundation:

Would it be helpful to require forensic investigation by a licensed Texas Professional Engineer to include:

- a. Excavation of exterior concrete beams to verify proper depth;
- b. Counting "Live" and "Dead Ends" in the case of a Post-tensioned slab-on-grade;
- c. Performing a "Lift-Off" Procedure on 25% of the cables to verify proper stressing;
- d. Verification of pier depth and belling, if applicable; or
- e. Conducting cores of the foundation in strategic locations determined by an engineer to verify the concrete has met the design strength?

(2) For a post tension slab, which is generally engineered, would a certification letter from the inspecting engineer provide sufficient assurance that the slab has been built correctly?

(3) When the lack of inspection involves the structural frame would it be helpful to require a licensed Texas Professional Engineer to conduct a forensic inspection involving removal of sheetrock or exterior brick in an amount to be determined by the engineer? Is there a less intrusive way to conduct a forensic inspection of the structure to determine if the framing is correctly installed?

4) When the lack of inspection involves the final inspection of mechanical delivery systems, would any of the following be helpful:

- a. Written verification of compliance from a Master Electrician or Master Plumber?
- b. Forensic investigations for plumbing can include many tests. What tests are necessary?
 - i. Pressurizing the water lines
 - ii. Smoke test for vent leaks
 - iii. Water test for sewer lines
- c. Should HVAC investigations only emphasize the proper equipment installation or should there be evidence provided on how the system was sized? Should testing be conducted to verify the TRCC Performance Standards of 78 degrees with a 4 degree temperature variation?

6) How can the builder address these phase inspection issues after the owners have closed and moved in?

Interested persons may send written comments regarding this issue to Susan K. Durso, General Counsel, The Texas Residential Construction Commission, P.O. Box 13144, Austin, TX 78711-3144. Comments regarding this application will be accepted for thirty days following the date of publication of this notice in the *Texas Register*. Comments may also be sent electronically to comments@trcc.state.tx.us. Please put “County Inspection Issues” in the subject line so that your submission will be considered.

The commission will utilize the information it receives to craft a proposal for handling the issue described. The commission may adopt a rule to address this issue that will be published for comment in the *Texas Register*.