

TESTIMONY FOR HEARING MAY 10, 2024
NEW HOME CONSTRUCTION AND THE UCC

Good afternoon,

Thank you, Senator Muth and the members of the Senate Democratic Policy Committee, for inviting me here today to speak on this very important topic.

When I read the article in the newsletter on concerns related to questionable construction of new homes in PA, my first thought was – Finally, It's about time. My second thought was - How can I help?

My name is Marc Faulkner. I am a trained electrician, certified inspector, and owner of a certified inspection agency.

For almost 15 years I have worked as a certified inspector. I worked for third-party agencies, a municipality, and currently have my own agency. I have inspected new homes, alterations, additions, and repairs.

During my career as an inspector, I have witnessed not just many code violations, but also building materials installed improperly. At times, these materials were structural in nature such as brackets and hangers. I have seen insulation installed upside down effectively placing the vapor retarder on the wrong side of the wall or ceiling assembly. I have also seen drainage piping at foundations installed upside down essentially rendering the system ineffective for carrying accumulated water away from the structure. I have witnessed, on more than one occasion, violations of the electrical code and numerous improper electrical installations.

When an installation is found to be in violation of the code, and a request for correction is made, it has been my experience that confrontation is inevitable. Usually, the response is that no other inspector has failed them for the same violation. Some confrontations are elevated to the municipal office, and elected officials resulting in pressure to pass the inspection. More often than not, another inspector and/or agency is assigned to the project and the failed inspection passes without correction or the permit is closed without further action. I've seen this occur on more than one occasion. How can this happen? It is at the discretion of the Building Code Official (BCO).

The BCO is a certified code official who has the responsibility of administrative enforcement of the Uniform Construction Code (UCC) at the municipal level. The BCO is not required to be a certified building inspector but determines an unsafe structure. The BCO can remove a stop work even if a property was posted by another code official for UCC violations. The BCO can issue a Certificate of Occupancy despite a failed inspection, or even if no inspections had been completed. The UCC permits the BCO to be employed by a third-party agency with no limit to the number of municipalities covered. There is a case where one BCO is assigned to 140 municipalities. Another where one BCO is assigned to an entire county.

It's logical to believe that the UCC is the standard to which all construction work must comply. To be effective, however, standards must be interpreted and enforced with consistency. The UCC does not require any type of construction field experience to become a certified inspector. The

test is an open book exam that does not include any PA amendments such as wall bracing, stair geometry, or changes to the requirements for smoke detectors. This has led to very different interpretations in the field. A prime example is the amendment of R312.2 of the International Residential Code for the requirement to install automatic sprinkler systems in new homes. This section was changed for PA and has been amended to require the builder to provide information on the cost, benefits, and option to install an automatic sprinkler system for new home buyers at or before the time of entering into a purchasing agreement. There is no written record of this occurring because according to the Department, this does not need to be in writing.

Likewise, there is no requirement for a contractor to be licensed or even competent in their selected trade. That is correct, no requirement by the state for the licensing of plumbers, framers, HVAC, or even electricians.

In this state we have licensing requirements for cosmetologists, driving, dogs, and even for fishing. We do not have this requirement for the workers in the skilled trades despite what you may have been told, assumed, or believe. The work of skilled trades affects every facet of our modern lives, at home, work, or recreation.

The Department is not involved with residential construction activity at the local level. This is the responsibility of the BCO.

As stated on the DOL website: *"The Department has no authority to take action against contractors or builders. The Department has no authority to require code violations to be corrected."*

<https://www.dli.pa.gov/ucc/Pages/Complaints-about-Municipal-and-Third-Party-Officials.aspx>

Likewise, the Office of Attorney General is not involved with new home construction.

As stated on the OAG website under FAQs:

Is new home building included in the law?

No, the construction of a new home is not considered a home improvement under the law.

<https://www.attorneygeneral.gov/resources/home-improvement-contractor-registration/contractor-frequently-asked-questions/#collapse-6380-r1-2>

If not the Department, if not the Attorney General, if not the municipality by way of inspections, then who? Who is looking out for the end user?

With a BCO employed by a third-party agency, and a third-party agency having exclusive control over the UCC inspection activities of a municipality, there is a lot of pressure to maintain the control and exclusivity for financial interests.

When there is no competency or licensing requirements for contractors, the standard becomes dictated by each inspector with some more lenient than others. With the BCO and inspector working for the same agency, the standard has the propensity to be lowered.

The UCC was intended to set a standard. The way it is written and enforced; it is anything but consistent. With the Department recusing itself from involvement in residential construction activities, and no other checks or balances in place, it appears the race to the bottom has been

achieved. The current climate of unlicensed contractors, inconsistent building code enforcement, and no involvement of the Department of Labor (DOL) or Office of Attorney General (OAG), leaves the building occupants, home buyers and the public in general subjected to unknown hazards. This does not align with the original intent of the UCC as written.

I implore the members of this committee, the General Assembly and anyone in the position of authority to make changes to the procedures of the UCC. To implement some type of standard that:

1. Places priority on the safety of our residents by mandating competency of our contractors,
2. Provides political and physical protection for inspectors so they can do their job with integrity and without fear of retaliation or intimidation,
3. To require the Department to investigate complaints of poor workmanship, unsafe conditions, and/or unscrupulous practices under the UCC for both commercial and residential construction projects.

At this time, I would like to make a proposal to volunteer a portion of my time and energy to assist residents that have responded to the survey and welcome assistance. I am prepared to visit the home(s) and provide an honest, objective evaluation of code compliance. Please contact me for further details should this be a viable option.