

**North Carolina Office of the State Fire Marshal
Engineering and Building Codes Division**

RE:)	
Appeal of the February 26, 2024)	
Decision by the Columbus County)	OSFM DECISION
Inspections Department Stop)	
Order Regarding the Property)	
Located at 276 Mosley Moore Dr.,)	
Whiteville, NC 28472.)	
)	
)	
)	

In accordance with G.S. § 160D-1114, Mary Powell Stanfield, through counsel, has appealed the Columbus County Inspections Department’s decision to issue a stop order requiring Shepherd Response to cease construction of a single family residence on the property located at 276 Mosley Moore Dr., Whiteville, NC 28472 to the Office of the State Fire Marshal, Engineering and Building Codes Division (“OSFM”).

G.S. § 160D-1114 allows appeals from a stop order alleging violation of the North Carolina State Building Code or any approved local modification thereof to the State Fire Marshal or his designee.

PARTIES

Appellant: Mary Powell Stanfield
276 Moseley Moore Dr.
Whiteville, NC 28472

Appellee: Columbus County Inspections Department
127 Webster St.
Whiteville, NC 28472

BACKGROUND

On March 1, 2024, the appellant submitted an appeal to the Office of the State Fire Marshal of the decision by the Columbus County Inspections Department to issue a Stop Order dated September 5, 2023 requiring Shepherd Response to cease construction of a single-family residence on the property located at 276 Mosley Moore Dr., Whiteville, NC 28472.

Appellant's appeal is supported by a Declaration dated March 1, 2024, in which she swears, under penalty of perjury, that, among other things, she did not receive notice of the Stop Order until February 26, 2024.

The appellant, a co-tenant in common through intestate inheritance of a parcel of land in Columbus County originally deeded to appellant's grandfather, James Mosley, received building permits to construct a replacement home on the property after damage to the previous home from Hurricane Florence. Construction began in mid-2023 with approval from the local inspections department. However, in September 2023, Columbus County issued a Stop Order halting construction, citing the appellant's lack of sole ownership and a complaint from another heir.

The appellant contends that she received no timely notice of the Stop Order and was not informed of any right to appeal until February 26, 2024. Through counsel, she now appeals the Stop Order, arguing that she holds a valid ownership interest as a co-tenant in common, that the building permits were improperly revoked by Columbus County and should be reinstated, and that suspension of the building permits violates her vested rights in the property, constitutes a deprivation of her right to due process, violates the rule against waste, and violates the North Carolina State Fair Housing Acts. Appellant further contends that at all times relevant to the application for or issuance of the underlying building permits, no violation of the North Carolina State Building Code occurred.

The Columbus County Inspections Department maintains that the Stop Order was validly issued because appellant failed to supply proof of property ownership and another heir to the property submitted a complaint regarding appellant's construction on the property.

ISSUE RAISED IN APPEAL

The appellant is appealing the appellee's decision to issue the Stop Order based on the appellant's status as co-tenant in common with additional heirs to the property without submission by the appellant of proof that all other heirs and co-tenants in common have consented to the underlying construction on the property.

The appellant's appeal reads in most relevant part as follows:

"According to N.C.G.S. §160D-1114, an owner may appeal a stop order 'involving alleged violation of the State Building Code' to the North Carolina Commissioner of Insurance within five (5) days after the order issued. This statute seems to imply that a stop order is appropriate when a State Building Code violation occurs. After careful review of the North Carolina State Building Code and the associated North Carolina General Statutes, we assert

that at all times relevant to the application of or issuance of the building permit, Ms. Stanfield was never in violation of either and the stop order was issued in error.”

The undersigned finds that the determinative issue on appeal is whether the issuance of the Stop Order was an appealable action under G.S. §§ 160D-1114 or 160D-1127, and whether the underlying dispute involves matters within the scope of the North Carolina State Building Code and the State Fire Marshal’s authority to decide appeals of actions taken by a local inspection department.

FINDINGS

Based on information submitted by the appellant, the undersigned makes the following findings.

1. There is an issue of fact regarding whether any heir and co-tenant in common has objected to the construction of the single family residence for which building permits were initially issued and which was the subject of the Stop Order. Appellant contends that she “has been in regular communication with *many* of the heirs” (emphasis added), and those heirs consented to the construction of the single family residence. Appellee contends that it received a complaint from an heir regarding the construction of the single family residence.
2. The Estate of James Mosley, appellant’s predecessor in interest, has not been probated. In the absence of the finality regarding the identities of the heirs and co-tenants in common provided by probating the estate, appellant has not acquired the consent of all potential heirs and co-tenants in common to proceed with construction on the property.

CONCLUSIONS

1. The determinative legal issue is whether a co-tenant in common’s right to freely use real property includes the right to apply for and receive building permits without unanimous consent from all co-tenants. This issue concerns property law and the rights of co-tenants in common – not the North Carolina State Building Code, any approved local modification thereof, or other State building laws.
2. Accordingly, this appeal does not arise from “a stop order involving alleged violation of the North Carolina State Building Code or any approved local modification thereof” within the meaning of G.S. § 160D-1114. *See* N.C. Gen. Stat. § 160D-1114(a).

3. To the extent the appeal may be construed as an appeal from “any order, decision, or determination by a member of a local inspection department pertaining to the State Building Code or other State building laws” pursuant to G.S. 160D-1127, the Stop Order does not allege any violation of the North Carolina State Building Code or other State building laws. *See* N.C. Gen. Stat. § 160D-1127. Instead, the appeal pertains to the rights and privileges of co-tenants in common.
4. The State Fire Marshal lacks jurisdiction to decide this appeal because the Stop Order does not allege a violation of the North Carolina State Building Code or any local modification thereof. Nor does the appeal of the Stop Order constitute an appeal of an order by a member of a local inspection department pertaining to the North Carolina State Building Code or other State building laws.
5. The proper venue for the determination of the rights of the appellant is the General Court of Justice of the State of North Carolina.

APPEAL DECISION

Based on the foregoing, the appeal is hereby DISMISSED for lack of jurisdiction. The State Fire Marshal lacks statutory authority under G.S. §§ 160D-1114 and 160D-1127 to hear this matter, as it does not involve an appealable issue related to the North Carolina State Building Code or other State building laws.



This 12th day of May 2025.

David Rittlinger, PE, LEED AP
Division Chief – Codes & Interpretations
North Carolina Office of State Fire Marshal

FURTHER APPEAL RIGHTS

The appellant and appellee have the right to appeal this decision to the NC Building Code Council, the Wake County Superior Court, or the superior court of the county in which the property at issue is located. Please refer to G.S. §§ 160D-1114, 160D-1127, and 143-141 and the NC Administrative Code and Policies, Section 202.9.2 for appeal rights. In accordance with G.S. § 143-141, you have 30 days in which to appeal this decision to the NC Building Code Council.

cc:

Darin Jackson, Building Inspector, Columbus County Inspections Department,
darin.jackson@columbusco.org

Amanda Prince, County Attorney, Columbus County, aprice@columbusco.org

Nathan Childs, NCDOJ, counsel for NC Building Code Council, nchilds@ncdoj.gov

Nicki Shaffer, NCDOJ, counsel for NC Residential Code Council, wshaffer@ncdoj.gov