



NEW YORK STATE SENATOR

Suzi Oppenheimer

Oppenheimer Obtains Important Clarification on Applicability of State Building Codes on Flood Damage Repairs

SUZI OPPENHEIMER March 21, 2012

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Responding to a conversation with Senator Suzi Oppenheimer (D-Mamaroneck) addressing her concerns, New York's Secretary of State, Cesar Perales, has confirmed that his Department will not issue new interpretations of the NYS Residential Code (RCNYS or the Code), which local officials had feared would require onerous and expensive repairs to homes in flood prone areas.

In a letter to Oppenheimer dated March 9, 2012, Secretary of State Perales noted an ambiguity in the RCNYS concerning the replacement of equipment, fixtures and appliances damaged during floods or replaced as part of a home repair in a flood zone area. Village officials in Mamaroneck and other flood prone communities in Westchester feared that, because of such ambiguities, the RCNYS could be interpreted to require the relocation of all such equipment above the base or design flood elevation (BFE or DFE) in any restoration work performed in a flood prone area. The replacement fixtures and appliances would include toilets, sinks, boilers, water heaters, washing machines, dishwashers, and similar equipment.

According to Perales, the individual municipality determines whether restoration work is a "repair" or a more substantial "alteration" under the RCNYS. In such cases, only alteration

work, as defined by the Code, must comply with new construction standards, including the installation of equipment and appliances above flood elevation.

“Local officials expressed concern that a change in the Code’s interpretation regarding the relocation of replacement plumbing, electrical or other appliances above base flood elevations would impose significant, and in some cases, prohibitive, additional costs on homeowners, who are already dealing with the devastation of flood damage,” said Oppenheimer.

“I’m grateful that Secretary Perales, who visited Mamaroneck and the City of Rye after the August floods, was very responsive to local concerns on this issue. He clarified that the replacement of such equipment, for any reason, in flood prone areas would not automatically trigger the flood resistant design requirements of our state codes and that no new interpretation will be implemented.”

Mamaroneck Mayor Norman Rosenbloom, who brought the village’s concerns to the Senator’s attention, stated: “On behalf of the Village of Mamaroneck, I want to thank the coordinated efforts of all elected and governmental officials for providing clear clarification on this issue. In particular, I want to thank Secretary Perales, Senator Oppenheimer, her Chief of Staff Steve Otis, Congresswoman Lowey and her Westchester Director Pat Keegan, for successfully making government respond to the needs of communities across the state.”