



**NEW CASTLE COUNTY COUNCIL  
COMMON INTEREST COMMUNITY  
TASK FORCE  
RECOMMENDATIONS**

**May 1, 2023**



## EXECUTIVE SUMMARY

Motivated by the tragedy of the Champlain Tower South condominium collapse in Surfside, Florida, New Castle County Council assembled a task force comprised of a coalition of experts in various aspects of common interest communities, including engineers, legal experts, land use experts, building experts, and professionals from various backgrounds, understanding that changes to New Castle County Code and inspection laws are needed to ensure the safety of buildings and structures in New Castle County.

The Task Force was comprised of the following members:

- *Mitch Frumkin*, PE, RS (Kipcon Inc.), professional engineer and reserve specialist, Task Force Co-Chair;
  - *County Councilman John Cartier*, as Co-Chair of the County Council Finance Committee, Task Force Co-Chair;
  - *County Councilwoman Kilpatrick*, Co-Chair of the County Council Land Use Committee;
  - *County Councilman Tim Sheldon*, Co-Chair of the County Council Public Works Committee;
  - *David Holston*, Asst. Land Use Mgr., designee for Richard Hall, General Manager of the County Department of Land Use;
  - *Christopher Curtin*, Esq., Ombudsman from the Delaware Department of Justice, Office of the Common Interest Community Ombudsperson;
  - *Chad Thoms*, Esq., (Whiteford, Taylor & Preston), representative of the Del. Common Interest Community Advisory Council;
  - *Jacqueline Davis*, CPCU, Senior VP (Hugh Wood, Inc.), insurance professional with relevant experience;
  - *E. Lee McCabe*, CPA CVA, (PKS & Co.) auditor with experience relating to common interest communities, including condominiums;
  - *Lisa Bolin*, Sr. Community Mgr. (FirstService Residential), condominium/common interest community manager;
  - *Buzz Quillen*, President (H.H. Quillen & Co.), condominium/common interest community manager;
  - *Nicole Skaro*, CMCA EBP, (CIT), representative of a financial institution with relevant experience;
  - *Grover Ingle*, the Delaware State Fire Marshall;
  - *Dan Edgar*, common interest community unit owner;
  - *Lisa Diller*, common interest community unit owner;
  - *Dawn M. Bauman*, Senior V.P., CAE (Community Associations Institute);
  - *Phoebe Neseth*, Esq., Dir., CMCA EBP (Community Associations Institute)
- Michael P. Migliore*, Esq. (legal counsel to the Task Force)

In this, the first leg of a comprehensive two-prong approach, County Council established the Task Force to recommend necessary changes in the law to ensure the safety of residential buildings and residents thereof. This is the first step in that endeavor. County Council intends to follow up on these ground breaking recommendations with the goal of identifying potential funding for common interest communities, including condominiums, to assist with unexpected assessments.

Meanwhile, this group presents the following summary of recommendations of the New Castle County Council Task Force, which are accompanied by proposed legislation.

## **SUMMARY OF RECOMMENDED CHANGES**

All buildings require periodic inspections and ongoing maintenance to maximize their lifespan and to ensure their structural integrity and the safety of the occupants who live there. The precautions included within these recommendations are in response to natural aging and exposure to the environment, not due to improper construction. The mandatory Structural Inspection program outlined below will address signs of progressive degradation of the structural frame.

However, other components of buildings can also impact the life and safety of occupants and will also degrade over time. Accordingly, it is recommended that, in addition to the building structure, the exterior envelope of buildings also be inspected on a periodic basis for progressive signs of aging and degradation to assure the safety and integrity of those systems as well as to protect the underlying structure from exposure to the elements which can travel through weaknesses in the exterior façade.

Whether an older building, or a new one, preventive maintenance programs should be established by building owners to assure items such as protective coatings for concrete, paint on structural steel, expansion and control joints, and other elements crucial to maintaining the health of a building structure remain functional. However, these programs are not always established by all building owners.

To assure that all structures remain safe regardless of maintenance programs put in place by building owners, the Task Force recommends that New Castle County adopt periodic structural and façade inspections similar to programs adopted in other jurisdictions in the United States.



## **BUILDING TYPES**

The recommendations set forth herein apply to residential common interest community buildings, including condominiums and cooperatives, as defined by the *Delaware Uniform Common Interest Ownership Act, Delaware Code Title 25, Chapter 81*.

## **TYPES OF INSPECTIONS**

The recommendations are for periodic structural inspections and inspections of the building's façade, and include the following:

- Inspections of applicable building structures and facades is required for all residential common interest community buildings, including condominiums, made up of certain identified materials and/or that have facades over a certain height or have external balconies.
- The structural inspection requirements would be based on all buildings in which the primary load bearing system (PLBS) is constructed of concrete, masonry, steel, or heavy timber, in addition to such buildings with structural slabs over unconditioned space.
- The Primary load bearing system ("PLBS") means the structural components within a building comprised of columns, beams, and/or bracing that form a path by which external and internal forces applied to the building are delivered to the foundation (*See diagram*).
- The façade inspection requirements would be based on the exterior walls and all attached appurtenances for all buildings 4 stories or taller unless the building has balconies below 4 stories, in which case such balconies also must be inspected.
- Inspections are to be conducted under applicable industry standards for all buildings in this category and are to be conducted prior to issuance of a certificate of occupancy and post issuance of the certificate of occupancy.
- *Pre-issuance of a certificate of occupancy*: The inspector (a "design professional" who is an engineer or architect with necessary qualifications) is to inspect and confirm that the primary load bearing system ("PLBS") and/or the façade as-built is equivalent to the proposed design.
- If a design professional determines that the PLBS and/or the façade is not in conformance with the building plans, the applicant shall provide additional plans which show conformance with a modification to the PLBS and/or façade.
- The creation of or repair, renovation, alteration, or modification of the PLBS and/or façade of a covered building required pursuant to any inspection shall be conducted by a design professional prior to issuance of a certificate of occupancy.
- Payment for inspections prior to issuance of the certificate of occupancy ("CO") and any required repairs is the responsibility of the building owner(s).
- The Department has the authority and responsibility to require repair recommendations be acted upon by the owner.