

**STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS  
DIVISION OF CODES AND STANDARDS  
BUREAU OF HOUSING INSPECTION**

**MEMORANDUM**

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**To:** Whom It May Concern

**From:** Fayez Fanik, PE ~~76~~  
Supervisor of Enforcement

**Date:** February 7, 2008

**Subject:** Exemption of Certain Condominiums, Cooperatives, and Mutual Housing Corporations  
from Bureau of Housing Inspection Jurisdiction

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In order for dwelling units under condominium, cooperative, or mutual housing corporation type ownership to be exempt from Bureau of Housing Inspection inspections, the association is required to have current valid certificate(s) of registration. If the association is not registered, please contact the Bureau's Registration Unit for registration applications at (609) 633-6216 or [BHIRRegistrations@dca.nj.gov](mailto:BHIRRegistrations@dca.nj.gov). The buildings within the association must be registered to be considered for exemption from the Bureau's inspections. Failure to register all buildings prior to consideration for exemption status will result in your application being denied due to insufficient documentation.

**I. LEGISLATION EXEMPTING CERTAIN CONDOMINIUMS, COOPERATIVES  
AND MUTUAL HOUSING CORPORATIONS FROM BUREAU OF HOUSING  
INSPECTION JURISDICTION:**

On January 17, 1983, Senate Bill No. 1239 was signed into law as Chapter 2 of the laws of 1983. On January 8, 1998, this law was amended per Assembly Bill No. 1842 as Chapter 311 of the laws of 1997. On January 14, 2000, this law was further amended per Assembly Bill No. 2545 as Chapter 384 of the laws of 1999. As Amended, the Hotel and Multiple Dwelling Law now provides that, as a general rule, multiple dwelling buildings having a condominium or cooperative or mutual housing corporation form of dwelling unit ownership are under Bureau of Housing Inspection jurisdiction. However, it exempts building sections of such buildings containing not more than four dwelling units where such building sections have at least two exterior walls unattached to any adjoining building section and are attached to any other building section exclusively by fire-resistant rated walls and that all dwelling units within each building are owner occupied. If a building section contains both owner-occupied and non-owner occupied units only the owner-occupied units are exempt. On August 7, 2000, Bureau of Housing Inspection regulation N.J.A.C. 5:10-1.4 was amended to include these changes. For graphic examples of various hypothetical building layout configurations that would be exempted from Bureau of Housing Inspection jurisdiction, refer to page 3 of this memorandum.

## **II. REQUIREMENTS FOR APPLICATION OF EXEMPTION FROM BUREAU OF HOUSING INSPECTION JURISDICTION:**

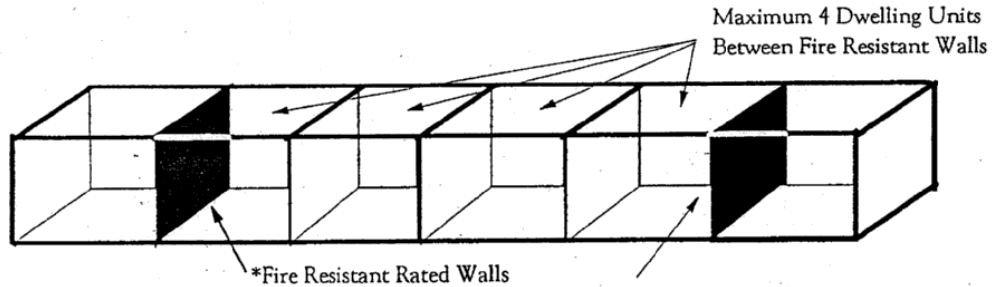
In order for dwelling units under a condominium or cooperative or mutual housing corporation type ownership to be exempt from Bureau of Housing Inspection jurisdiction, the association is required to submit both a detailed written and graphic report indicating that the required fire separation walls comply fully with N.J.A.C. 5:10-1.4(b)4. requirements and a certified list identifying all owner-occupied units.

This required report is to be prepared by either a New Jersey registered architect or a New Jersey licensed professional engineer who shall affix his/her signature, embossed seal and date thereto. Upon receipt of such report, the Bureau will review same and make a determination relative to the issuance of an exemption. Refer to page 4 of this memorandum for copy of "Condominium Exemption Draft Letter" that can be used as a guide for submission of required report.

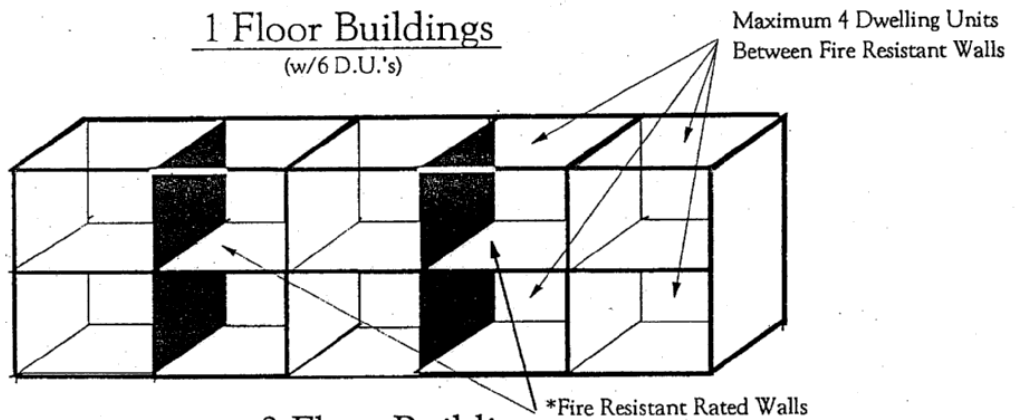
## **III. ADDITIONAL GUIDANCE:**

If you have any questions related to a specific building or condition, please contact the Bureau of Housing Inspection's Compliance Section at (609) 633-6229 or [BHICodeComp@dca.nj.gov](mailto:BHICodeComp@dca.nj.gov) for assistance. If you have specific questions about the exemption, please contact us at (609) 633-6227 or [BHIInspections@dca.nj.gov](mailto:BHIInspections@dca.nj.gov).

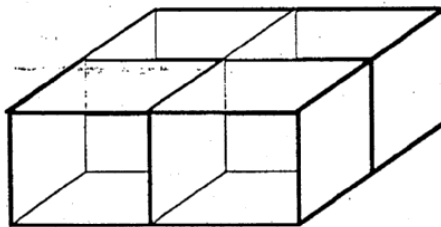
CONDOMINIUM/COOPERATIVE/MUTUAL HOUSING CORPORATION  
BUILDING LAYOUT CONFIGURATIONS  
THAT MAY BE EXEMPTED FROM B.H.I. JURISDICTION  
IN WHOLE OR IN PART



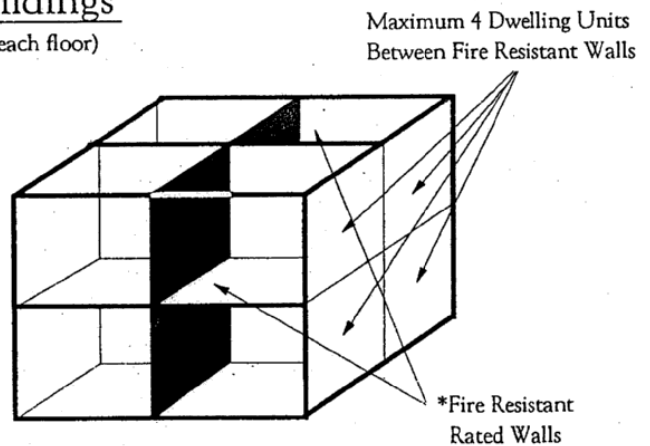
1 Floor Buildings  
(w/6 D.U.'s)



2 Floor Buildings  
(w/10 D.U.'s, 5 on each floor)



1 Floor Buildings  
(w/4 D.U.'s)



2 Floor Buildings  
(w/8 D.U.'s, 4 on each floor)

\*Minimum 1 1/2 hour fire resistant rated wall that extends from the foundation to the underside of the roof sheathing and to the exterior wall sheathing for buildings constructed prior to January 1, 1977, or as required by the New Jersey Uniform Construction Code at the time of construction subsequent to January 1, 1977.

**CONDOMINIUM/COOPERATIVE/MULTUAL HOUSING CORPORATION EXEMPTION  
DRAFT LETTER**

(Date)

State of New Jersey  
Department of Community Affairs  
Division of Codes and Standards  
Bureau of Housing Inspection  
PO Box 810  
Trenton, NJ 08625-0810

RE: (Name of Condominium/Cooperative/Mutual Housing Corporation Complex)

To Whom It May Concern:

I, (name of RA or PE), have read and understand the requirements of both N.J.A.C. 5:10-1.4(b) and Section II, "Requirements for Application of Exemption from Bureau of Housing Inspection Jurisdiction" as contained in the February 7, 2008 "Exemption of Certain Condominiums, Cooperatives, and Mutual Housing Corporations from Bureau of Housing Inspection Jurisdiction" memorandum.

Based upon such requirements, I have visited the complex and certify that except as otherwise indicated in an attaché list, the following conditions are found to exist:

- Each building section contains no more than four dwelling units and has at least two exterior walls unattached to any adjoining building sections (See attached small scale typical layout plan(s) of such type building sections.) and
- Each building section is attached to adjoining building sections exclusively by fire separation walls having a minimum 1½- hour fire resistant rating that extends from the foundation to the underside of the roof sheathing and to the inside of the exterior wall sheathing for buildings constructed prior to January 1, 1977, or as required by the New Jersey Uniform Construction Code at the time of construction subsequent to January 1, 1977. (See attached drawn to scale typical as-built cross-section detail of such wall(s).)

Signature and embossed seal of NJ RA or PE

STATE OF NEW JERSEY )

Department of Community Affairs

Division of Codes and Standards

Bureau of Housing Inspection

SS

County of \_\_\_\_\_)

## **CERTIFICATION IN LIEU OF AFFIDAVIT**

1.) I, \_\_\_\_\_ being 18 years of age or older, do solemnly certify and say:  
(Signer of certification)

I am the \_\_\_\_\_ of the \_\_\_\_\_  
(Office held) (Name of Condominium, Cooperative or Mutual Housing Corp)

This Condominium Association, Cooperative or Mutual Housing Corporation has jurisdiction over the  
common areas of premises located at \_\_\_\_\_  
(Address of Property)

in the Municipality of \_\_\_\_\_, County of \_\_\_\_\_,

2.) The above premises are currently being occupied as a Condominium, Cooperative or Mutual Corporation as defined in Section 3 of the New Jersey Hotel and Multiple Dwelling Law.

3.) Except for the units indicated below, all units in this Condominium, Cooperative or Mutual Housing Corporation are occupied exclusively by the owners or shareholders of the units and members of their households, I hereby claim exemption of the units that are so occupied. Exceptions, if any, are as follows:

\_\_\_\_\_  
(attach a small-scale site plan that graphically indicates location of all non-owner occupied or vacant units)

4.) The Condominium Association, Cooperative or Mutual Housing Corporation shall notify the Bureau of Housing Inspection immediately, in the event that any dwelling unit that is currently owner-occupied becomes inhabited by a tenant of the owner or shareholder or becomes unoccupied. I understand that the Association shall be liable for a penalty in the event that it fails to advise the Bureau within 30 days in each case in which a unit that is currently owner-occupied or held for occupancy by the owner becomes tenant-occupied or unoccupied.

5.) I understand that, in the event of failure or refusal of the Condominium Association, Cooperative or Mutual Housing Corporation to provide information to the Bureau concerning tenant occupancy within 30 days, they shall be subject to a penalty of from \$50 to \$500 for each violation and to a penalty of from \$500 to \$5,000 for each violation that is a continuing violation, in accordance with Section 19 of the New Jersey Hotel and Multiple Dwelling Law, (N.J.S.A. 55:13A-19).

I certify that the forgoing statements made by me are true. I am aware that, if any of the forgoing statements made by me are willfully false, I am subject to punishment.

Registration No.: \_\_\_\_\_

DATE \_\_\_\_\_

\_\_\_\_\_  
Signature of certifier

\_\_\_\_\_  
Printed name of certifier

\_\_\_\_\_  
Address of Certifier

**N.J.A.C. 5:10-1.4 Scope**

**(a) This chapter shall apply to the repair, maintenance, occupancy and use of new and existing hotels, retreat lodging facilities and multiple dwellings in the State of New Jersey.**

**(b) A building section containing not more than four dwelling units shall not be considered to be a portion of a multiple dwelling if it:**

**1. Is held under a condominium or cooperative form of ownership or by a mutual housing corporation;**

**2. Has no dwelling units not occupied by unit owners, if a condominium, or by shareholders, if a cooperative or mutual housing corporation.**

**i. If there are both owner-occupied units and units that are not owner-occupied within a building section, then the owner-occupied units within that building section, and only the owner-occupied units, shall be considered not to be portions of a multiple dwelling.**

**ii. The condominium association or cooperative or mutual housing corporation shall provide the Bureau with any information necessary to justify an exemption for a dwelling unit or building section pursuant to this paragraph.**

**3. Has at least two exterior walls unattached to any adjoining building section; and**

**4. Is attached to any adjoining building sections exclusively by fire separation walls having a 1 1/2 hour minimum fire resistant rating, in the case of buildings constructed prior to January 1, 1977, or as required by the State Uniform Construction Code, N.J.A.C. 5:23, at the time of construction.**