

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1017
Committee Substitute Favorable 5/9/91

Short Title: Cities' Subpoena/Stop Orders.

(Public)

Sponsors:

Referred to:

April 19, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE SUBPOENA POWER TO ALL MUNICIPALITIES AND TO
AUTHORIZE ISSUANCE OF STOP ORDERS FOR VIOLATIONS OF ZONING
AND SUBDIVISION ORDINANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-80(c) is repealed.

Sec. 2. G.S. 160A-388 is amended by adding a new subsection to read:

"(g) The board of adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the Court shall have jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the board of adjustment pursuant to a subpoena issued in exercise of the power conferred by this subsection may be used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing committed on the examination. Any person who, while under oath during a proceeding before the board of adjustment, willfully swears falsely, is guilty of a misdemeanor."

Sec. 3. G.S. 160A-421 reads as rewritten:

"§ 160A-421. Stop orders.

(a) Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, or in substantial violation of any State or local building law, in a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or

1 presents such a hazard to be immediately stopped. The stop order shall be in writing,
2 directed to the person doing the work, and shall state the specific work to be stopped,
3 the specific reasons therefor, and the conditions under which the work may be resumed.

4 (b) The owner or builder may appeal from a stop order involving alleged
5 violation of the State Building Code or any approved local modification thereof to the
6 North Carolina Commissioner of Insurance or his designee within a period of five days
7 after the order is issued. Notice of appeal shall be given in writing to the Commissioner
8 of Insurance or his designee, with a copy to the local inspector. The Commissioner of
9 Insurance or his designee shall promptly conduct an investigation and the appellant and
10 the inspector shall be permitted to submit relevant evidence. The Commissioner or his
11 designee shall as expeditiously as possible provide a written statement of the decision
12 setting forth the facts found, the decision reached, and the reasons for the decision.
13 Pending the ruling by the Commissioner of Insurance or his designee on an appeal no
14 further work shall take place in violation of a stop order. In the event of dissatisfaction
15 with the decision, the person affected shall have the options of:

16 (1) Appealing to the Building Code Council, or

17 (2) Appealing to the Superior Court as provided in G.S. 143-141.

18 (c) The owner or builder may appeal from a stop order involving alleged
19 violation of a local zoning ordinance by giving notice of appeal in writing to the board
20 of adjustment. The appeal shall be heard and decided within the period established by
21 the ordinance, or if none is specified, within a reasonable time. No further work shall
22 take place in violation of a stop order pending a ruling.

23 (d) Violation of a stop order shall constitute a misdemeanor."

24 Sec. 4. This act is effective upon ratification.