

Deck Structure and Liability Issues for Property Owners

Related Practices

Personal Injury

- Premises Liability (Slip and Fall, Dog Bites, Dangerous Activities)

Related Attorneys

Andrew D. Gowdown

Mary Harriet Moore

August 10, 2021

Adding a deck to your home or business improves its value and allows you to enjoy the outdoors. However, a poorly constructed deck can open the door to major liability issues. If someone is injured because of a deck on your property, when can you be held liable? How might factors like the age of the deck affect the owner's liability? Deck collapses and similar accidents raise complicated questions of not just legal liability, but also questions surrounding engineering, architectural, and building code standards. Property owners who are faced with a premises liability lawsuit because of a faulty deck need legal representation to protect their interests. Rosen Hagood is experienced with these types of claims and is ready to assist you.

Determining if a Deck is Up to Building Code Standards

One of the first questions that must be asked after a deck collapse or similar accident is whether the deck was constructed according to the applicable building codes. This is especially relevant to the railings but can affect any part of the deck if something disastrous occurs. These are three initial issues that have to be evaluated:

Were the railings of sufficient height? Lack of railing or insufficient railing are common causes of deck accidents. Railing heights must comply with applicable code regulations, although there may be variations based on such factors as when the deck was constructed and how the railing was intended to be used.

Were the railings built in the correct places? Railings of appropriate height must be placed at certain locations on the deck. For instance, railings usually must border the edge of the balcony where people walk and on both sides of a set of stairs.

Finally, is the deck large enough to hold the number of people who will be on it? For example, it must be determined whether there is sufficient point load (referring to the amount of load applied to any single point) and enough load per linear foot.

Another determination that must be made is which building code controls these variables. South Carolina has adopted the 2018 version of the International Building Code. But this isn't a clean-cut answer because some decks in the state may be older and built according to different codes.

Collapse of Older Decks and Premises Liability

With this in mind, what happens if a homeowner or business owner purchases property with a

deck constructed under an older or different building code? The question that arises is whether the owner has an obligation to update the deck to bring it in compliance with the latest code. In most cases the answer is probably no, although it's a good idea to check with a qualified architect or engineer if the deck is of substantial age and differs greatly from modern decks.

If a deck was constructed under an old building code and there is a change to the property, this could trigger the need to update the deck. An occupancy change to a structure or a remodel are two possible examples. Again, ask a professional if you're unsure how a property change affects the deck and other structures.

Local municipalities in South Carolina are mandated by the General Assembly to adopt certain international building codes. However, these local jurisdictions have the option to adopt other codes, for example, the International Property Maintenance Code, which contains various structural requirements involving decks. Checking with a local attorney is key to understanding your rights and obligations.

Causes of Deck Collapse Lawsuits

After a deck collapse resulting in personal injury, the cause of the collapse must be considered. These are some of the most common ones:

- Improper use
- Overloading (too many people)
- Code violations
- Low quality construction materials
- Deterioration (e.g. wood rot)

The standard of liability in South Carolina is determined whether the owner knew, or should reasonably have known, about a dangerous condition on the property. While there are examples of deck accidents due to obvious problems like sagging balconies or the absence of railings, they usually happen suddenly because of hidden defects.

As with most personal injury and premises liability lawsuits, the outcome will depend largely on the unique facts and circumstances of the deck collapse. However, there's a technical aspect to deck safety that raises questions of how and in what manner the deck was built. A skilled attorney understands the need to seek expert witness input to address these issues and advocate for clients.

Rosen Hagood defends property owners after deck collapses and other premises liability incidents. If you're a defendant in a case involving a deck accident, or you have questions about your legal duties, give us a call today.

