

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS

State Building Code Appeals Board
Docket No. 05-282

James Jensen,)
Appellant,)
)
v.)
)
City of Boston and William Good,)
Appellees)
)

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("the Board") on the Appellant's appeal filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, Appellant asks the Board to grant a variance from Section 1010.2 of the State building code. In accordance with MGL c. 30A, §§ 10 and 11; MGL c. 143, §100; 801 CMR 1.02 et. Seq.; and 780 CMR 122.3.4, the Board convened a public hearing on August 22, 2006 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and representing the Appellant was Kevin Hastings of Sullivan Code Group. Though notified, there was no representative present from the City of Boston Inspectional Services Department ("Boston ISD").

Exhibits¹

The following Exhibit was entered into evidence:

Exhibit 1: Email from Boston ISD

Findings of fact

1. The Appellant is the Executive Director of Live Nation which operates out of the Boston Theatrical Venues which include the Boston Opera House. (Board records, Appellant's testimony at hearing).

¹ The Board takes administrative notice of its own records. 801 CMR 1.01(10)(h)(administrative notice); M.G.L. 30A, §11(5).

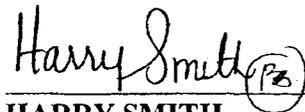
2. The Appellant would like to renovate an area of the opera house into office space ("proposed office space"). This area is the last remaining area of the opera house to be renovated. (Board records, Kevin Hastings testimony at hearing).
3. The proposed office space has one means of egress which leads to an area behind the balcony seating area which is one floor up from grade level. (Board records, Kevin Hastings testimony at hearing).
4. The calculated occupant load for the proposed office space is 20 people. The actual travel distance from the most remote corner of the proposed office space to the bottom of the egress stair is 132 feet. (Board records, Kevin Hastings testimony at hearing).
5. 780 CMR Table 1017.2 and 780 CMR 1011.2.1 allows for the proposed office space to have a single means of egress with a common path of travel of not greater than 100 feet. (Board records, Kevin Hastings testimony at hearing).
6. The proposed office space was previously used as construction offices when the main building was under construction. Office use is the historic use of the proposed office space; it is referred to as the "Kennedy Suites" because Mr. Joseph P. Kennedy previously occupied this area as office space. (Board records, Appellant and Kevin Hastings testimony at hearing).
7. The proposed office space would be an accessory use to the theater. The occupants of the space will be the individuals booking the plays into the theater. (Board records, Appellant's testimony at hearing).
8. The proposed office space will house fifteen people. (Board records, Appellant's testimony at hearing).
9. The opera house has a full sprinkler system and fire alarm system. (Board records, Appellant's testimony at hearing).
10. Boston ISD was in favor of the granting of this variance.

Conclusion

The Appellant's request for a variance is **GRANTED** provided that there is a full sprinkler system and fire alarm system in the proposed office space and the occupancy load was what was stated at this hearing.

Motion carried 3-0.

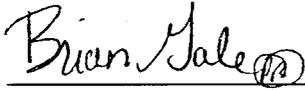
SO ORDERED,



HARRY SMITH



ALEXANDER MACLEOD



BRIAN GALE

DATED: October 23, 2006

**In accordance with M.G.L. c. 30A §.14, any person aggrieved by this decision may appeal to the Superior Court within 30 days after receipt of this decision.*