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Executive Office of Public Safety

State Board of Building Regulations and Standards

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SBBRS NEWSLETTER

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LOCAL ORDINANCE vs. STATE BUILDING CODE

In October, 1985, an eastern Massachusetts town passed an amendment to its local by-laws which would have prohibited the use of treated and untreated wood shingles or shakes as roofing materials. The amendment had been requested by the Town Fire Chief, citing limitations to the local water supply, understaffing of the Town Fire Department, frequency of high winds, and delayed response to mutual aid fire requests due to geographic factors.

The Attorney General's office disapproved the ordinance, as they found that the ordinance, ". . . seeks to regulate methods of construction and thus in effect amends the State Building Code." The Attorney General further noted that amendments to the code are proposed per the provisions of Chapter 143, Section 97 of the General Laws. Section 98 of Chapter 143 allows a local Board of Selectmen or Mayor to recommend to the Board of Building Regulations and Standards (BBS) the imposition by a city or town of more restrictive standards than those contained in the State Building Code. However, in order for the BBS to allow the imposition of more restrictive standards, it must be shown that the standards:

- 1). Are reasonably necessary, owing to special conditions locally; and
- 2). Conform with accepted engineering and fire protection practice; and
- 3). Do not conflict with the general purposes of a statewide building code.

BUILDING OFFICIALS OF WESTERN MASSACHUSETTS

At the Western meeting held on February 12, Mr. C. Cook, Building Commissioner of the City of Springfield, announced that there will be a meeting of representatives of the three Massachusetts building official's organizations. The meeting will serve as a conference committee to prepare recommendations for consideration by the Board of Building Regulations and Standards. The Western association favors the adoption of the latest edition of the BOCA Code with as few revisions as practicable and favors the substitution of the CABO One and Two Family Code for Article 21 of the Massachusetts State Code.

RESPONSIBILITIES OF A LICENSED CONSTRUCTION SUPERVISOR

Many questions have been raised as the responsibilities of a Licensed Construction Supervisor. We have provided this summary for your information and use.

A construction supervisor's license is required to obtain a building permit to do structural work on those buildings and structures not under construction control by a Registered Architect or Professional Engineer. Basically, these structures consist of one and two family dwellings and their accessory structures, farm buildings, other buildings containing less than 35,000 cubic feet of enclosed space and retaining walls less than ten feet in height. An exception in the Code allows the resident owner of a dwelling containing less than six residential units to act as his own construction supervisor without a license, so long as not more than one home is constructed in a two year period (reference Section 109.1.1 and 127.1 - State Building Code).

Other responsibilities of a licensed construction supervisor include:

- Provide the name, license number and signature on building permit applications for which the license holder is acting as supervisor (Ref. Sec. 2.16 - Rules). It is suggested that building inspectors ask to see the license card and another photo identification.
- See that work is done in accordance with the building permit and approved drawing (Ref. Sec. 2.15.1 - Rules).
- Report changes of address or loss of license card to this Board (Ref. Sec. 2.11 - Rules).
- Immediately notify the Building Inspector having jurisdiction of any violations, or of the withdrawal or removal of the license holder from the project (Ref. Sec. 2.15.3 and 2.16 - Rules).
- Have the license card in his/her possession whenever at job sites (Ref. Sec. 2.13 - Rules).
- Be present at job sites to approve the following work (Ref. Sec. 2.12 - Rules):

Excavation
Foundation
Decking

Rough Framing
Finished Framing

Chimneys at
- excavation/foundation
- top of smoke chamber/
- support of flue liners
upon completion.

PUBLIC HEARING

The Board's public hearing as mandated by MGLA c 143, S 97 is scheduled for May 22, 1986 in Conference Rooms 1 and 2 of the 21st Floor, One Ashburton Place, Boston.

REGULATORY SYSTEM STUDY

One of the Board's highest priorities is the completion of the study on the building construction regulatory system in Massachusetts as mandated by S. 13, c 348, 1984. This mandate included the establishment of a Special Commission consisting of the eleven (11) Board members and one member each of the House and Senate. Their charge is to examine and submit recommendations to the Governor and General Court by December of this year on:

1. An examination of the national model codes and standards for possible use and adoption;
2. A study and review of the permits, rules and regulations of the several boards, agencies and authorities which govern and control building construction and development of a proposal to create an effective means of coordinating such permits, rules and regulations to avoid conflicting requirements and jurisdictions;
3. A study and report on methods and organizational structures used in other states for effective building and construction code and permit administration;
4. A study and proposal of methods and actions which will accomplish the foregoing in the best, most reasonable, and economic way cognizant of the importance of construction activity and the public safety.

The preliminary research work on this study has been completed and an interim report on the existing Massachusetts regulatory system and the building regulatory system of other comparable states such as New Jersey, Indiana, Rhode Island and Michigan was completed.

A summary of this interim report was mailed last December to a wide variety of organizations and individuals in the construction field, including the three (3) Massachusetts Building Officials' associations, inviting their comments so as to obtain as much input as possible into this study.

Copies were also sent to the Technical Code Council members who met on January 27 and again on March 5 to discuss segments of the report, in particular duplication of efforts and overlapping jurisdictions.

This is in line with the Council's mandated responsibility to assist the BBRS and make recommendations relative to the formulation, promulgation and administration of the State Building Code (MGLA c 143, S 94). The Council is made up of a representative from each state agency concerned with the State Building Code; therefore, they are in a position to address most of the segments of the study. The Council will meet again the end of April and continue to meet as needed.

In the meantime, the BBRS and Special Commission are making every effort to obtain comments on this study from as many as possible within the building community. This is an important study and was included in c 348, 1984 by the various Massachusetts Building Officials' associations and building associations who worked so actively to re-establish the authority of the former Commission. Consequently, we feel it is most important that you be heard on this study. Let us hear from you.

RECENT STATE BUILDING CODE APPEALS BOARD DECISIONS

APPEAL DOCKET NUMBER 846:

The Building Commissioner, after having issued a Building Permit, subsequently issued a Stop Work Order and revoked the permit when abutters to the project initiated an appeal to the Zoning Board of appeals.

The Appellant argued that none of the requisite conditions for issuing either a Stop Work Order (Section 122.0), or for revoking the Permit (Section 114.7) were present.

The Commissioner testified that work had not been proceeding contrary to the provisions of the Code, or in an unsafe or dangerous manner, nor had there been any misrepresentation in the permit application.

The Board determined that the Stop Work Order and the revocation were not issued in accordance with Sections 122.0 and Section 114.7 of the Code. The Board voted to reverse the order of the Commissioner.

APPEAL DOCKET NUMBER 851:

The Building Commissioner issued a permit for renovations to a lodging house, however, as a condition of the permit enjoined the Appellant from installing kitchen units in the lodgers' rooms.

The Appellant argued that kitchen units, while not required, are not prohibited by the Code in Section 201.3, definition of Lodging House.

The Building Commissioner argued that the inclusion of kitchen units would create apartments and as a consequence several sections of the Code would become unenforceable.

The Board determined that the Commissioner acted properly and sustained the conditions of the permit.

APPEAL DOCKET NUMBER 816:

The Building Inspector cited as a violation the use of combustible members being used in the exterior walls, toilet rooms and electrical/telephone rooms in a business building of Type 2C construction which was under construction.

The Appellant contended that Note h to Table 214 would allow the use of fire-retardant treated wood and proposed to treat combustible members not at the time installed with an intumescent coating to achieve compliance with Table 214, Note h and the referenced Sections of Article 9 (903.6.1 and 903.6.2).

The Board confirmed the Inspector's objection to the use of combustible members as a violation of the provisions of Table 214, and further found that the application of an intumescent coating to non-treated wood does not satisfy the requirement of Note h as equivalent protection cannot be achieved by this method.

The Appellant was ordered to use only fire retardant treated wood conforming to the requirements of Sections 903.6.2 and 903.6.1 (test of surface burning characteristics). The Board allowed that the small amount of untreated wood already in place could remain provided that it was covered with an intumescent coating.