

**MICHIGAN CONSTRUCTION CODE COMMISSION
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
BUREAU OF CONSTRUCTION CODES
P O. BOX 30254
Lansing, MI 48909**

Brian St. Clair,

Petitioner

**Appeal Docket No.
CCC-PRD 08-008**

vs

St. Clair Township Construction Board of Appeals,

Respondent

ORDER OF THE MICHIGAN CONSTRUCTION CODE COMMISSION

Background:

The building that is the subject of this appeal is a single-family dwelling that has been under construction in St. Clair township for the past seven years. The original permit for construction was issued in January 2000 by St. Clair Township. Mr. Brian St. Clair was the permit holder. The permit was renewed under the 2000 Michigan Residential Code in the year 2002. Since that time the dwelling has incrementally been under construction without being fully enclosed nor protected from weather. On May 7, 2008 a letter was sent to Mr. St. Clair by the Planning/Building Administrator, Mr. Kirk Lavigne, that the dwelling construction was being condemned as an unsafe structure per the 2003 Michigan Residential Code and 2003 International Property Maintenance Code. Mr. St. Clair appealed this order to the St. Clair Township Construction Board of Appeals which held a hearing on July 1, 2008 upholding the demolition order with modifications outlining conditions for the permit holder to continue construction. Mr. Brian St. Clair (petitioner) filed an appeal of the St. Clair Township Construction Board of Appeals with the State Construction Code Commission on September 16, 2008.

Procedural Findings:

On consideration of the request dated September 16, 2008, from Brian St. Clair., a hearing before a panel of the Construction Code Commission was held October 14 2008, at the Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan in accordance with the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, Section 125.1516. Present were Brian St. Clair representing himself, Vincent Hoyumpa representing Brian St. Clair, Karen St. Clair representing Brian St. Clair, Kirk Lavigne representing St. Clair Township, Scott Lidgard representing Brian St. Clair...

Issue:

To appeal the decision of the St. Clair Township Construction Board of Appeals upholding the demolition order of St. Clair Township for the dwelling at 6915 Serenity Lane, St. Clair. MI parcel number 74-30-008-4001-450 citing the 2003 Michigan Residential Code and the 2003 International Property Maintenance Code.

Findings:

Testimony by the petitioner stated that the permit was issued to Mr. Brian St. Clair in the year 2000. Construction progressed incrementally due to the fact that Mr. St. Clair was going through divorce proceedings with his ex-wife. The permit was re-issued in 2002 but work has not progressed at a constant rate due to financial difficulties resulting from Mr. St. Clair's divorce. The respondent wished to enter consultant testimony during the hearing before the commission panel, regarding the safety of the house under construction, but bureau staff and the state Assistant Attorney General advised the panel that the appeal is based on the ruling and record of the local appeal heard by the St. Clair Township Construction Board of Appeals. The petitioner stated that the local enforcing agency cited the International Property Maintenance Code and the Michigan Residential Code in the demolition order. Testimony by the respondent stated that the subject house has been under construction since the permit was issued in the year 2000 and it has been exposed to weather, causing water damage to the building materials in the wall, floor, and roof framing. It is the opinion of Mr. Kirk Lavigne (respondent) that the house under construction constitutes an unsafe structure and the International Property Maintenance Codes applies as referenced by the Michigan Residential Code. The panel inquired if St. Clair Township has a local ordinance adopting the International Property Maintenance Code. Mr. Lavigne stated that St. Clair Township does not have such an ordinance

November 3, 2008

Conclusions:

The International Property Maintenance Code is only referenced in the 2003 Michigan Residential Code by Section G102.6 applying to legally occupied structures at the time of code adoption. Since testimony of the respondent stated that there is not a local ordinance adopting the International Property Maintenance Code, it only applies as referenced by Section G102.6 of the 2003 Michigan Residential Code. No specific sections of the 2003 Michigan Residential Code were cited in the demolition order.

Decision:

The appeal decision of the St. Clair Township Construction Board of Appeals upholding the demolition order (issued by St. Clair Township) is overturned. The township cannot cite the International Property Maintenance Code for a building that is not yet legally occupied. The Michigan Residential Code is applicable to such a single-family dwelling under construction.

THEREFORE, it is ordered that the request for relief from the requirements of the appeal decision of the St. Clair Township Construction Board of Appeals (citing the 2003 Michigan Residential Code and the International Property Maintenance Code and the International Property Maintenance Code) be granted. The appeal decision of the St. Clair Township Construction Board of Appeals is also overturned. This order is binding on all parties unless appealed in accordance with the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, Section 125.1518.



MICHIGAN CONSTRUCTION CODE COMMISSION
Don Pratt, Chairperson
Panel of Appeals

11/3/08 Date