MICHIGAN CONSTRUCTION CODE COMMISSION
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF CONSTRUCTION CODES
P.O. BOX 30254
LANSING, MI 48909
(517) 241-9328

APPEAL DOCKET NO: CCC-PRD 07-006

Petitioner, Mecosta County Building and Zoning Department

VS

Respondent, JDJ Ranch

NOTICE OF HEARING

Date: June 19, 2007
Time: 10:00 A.M.
Location: 2501 Woodlake Circle
Okemos, MI 48864
Administrative Conference Room, Suite 116, 1st Floor

Pursuant to the authority contained in 1972 PA 230, Section 16, as amended, the Michigan Construction Code Act (MCLA 125.1516):

A hearing will be held in response to the request of Dennis Burrick, dated May 21, 2007, to appeal the May 3, 2007 decision of the Mecosta County Building Board of Appeals granting relief from the 2003 Michigan Building Code (for an A-4 use group building). In the event that a party in this hearing intends to offer additional exhibits, transmit one (1) copy to each party listed on the attached proof of service and (1) copy to this office with proof of service.

All parties are expected to be prepared to present competent evidence regarding the disputed issues. This hearing will be conducted in accordance with procedures applicable to contested cases and 1969 PA 306 of the Administrative Procedures Act.

Exhibits:

Exhibit 1 – Application for Construction Code Appeal
Exhibit 2 – Letter from Dennis Burrick to Construction Code Appeal
Exhibit 3 –Mecosta County Building Board of Appeals Meeting Minutes of May 3, 2007
Exhibit 4 – Letter from Ronald Richards, Jr. to Dennis Burrick with enclosures
Exhibit 5 – Copy of paces 3-8 of the 2003 Michigan Building Code

MICHIGAN CONSTRUCTION CODE COMMISSION

Todd Y. Cordill, NCARB
Assistant Chief, Plan Review Division

May 25, 2007
Date

PROOF OF SERVICE

I, Denise Davis, hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, e-mail and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 25th day of May 2007.

Denise Davis

Denise Davis
Plan Review Division

Don Pratt
Wake-Pratt Construction Co.
1080 N. Opdyke, Suite 200
Auburn Hills, MI 48326

Robert A. DeBerardino
421 N. Denwood
Dearborn, MI 48128

Kenneth G. Lawless
Clark Construction
3535 Moores River Drive
Lansing, MI 48911

Dennis J. Burrick
Mecosta County Building Department
14485 Northland Drive
Big Rapids, MI 49307

James McLachlin
JDJ Ranch
10481 Evergreen Road
Evart, MI 49631

UPS Next Day Air®
UPS Worldwide Express℠
Shipping Document

See instructions on back. Visit UPS.com® or call 1-800-PICK-UPS® (800-742-5877) for additional information and Terms and Conditions.

TRACKING NUMBER 1Z 548 8W1 22 1003 4493

1 SHIPMENT FROM

SHIPPER'S UPS ACCOUNT NO.: 5488W1

REFERENCE NUMBER

NAME: Denise Davis — TELEPHONE: 517-241-9328

COMPANY: DLEG/BCCFS

STREET ADDRESS: 2501 WOODLAKE CIRCLE

CITY AND STATE: OKEMOS — ZIP CODE: MI 48864-5976

2 EXTREMELY URGENT DELIVERY TO

NAME: Dennis J. Burrick — TELEPHONE: (231)592-0105

COMPANY: Mecosta County Building Dept.

STREET ADDRESS: 14485 Northland Drive — DEPT./FLR. — Residential Delivery ☐

CITY AND STATE (EXCLUDE COUNTRY IF INTERNATIONAL): Big Rapids, MI — ZIP CODE: 49307

3 WEIGHT

Weight (Enter "LTR" if Letter)	Dimensional Weight (If Applicable)	Large Air Package
Ltr.		☐

4 SHIPPER RELEASE ☐

5 TYPE OF SERVICE — CHARGES

- ☒ Next Day Air — ☐ Express (Int'l)
- For Worldwide Express Shipments: Mark an "X" in this box if shipment only contains documents of no commercial value. ☐ Documents Only

6 OPTIONAL SERVICES

- ☐ Saturday Pickup (See instructions) — ☐ Saturday Delivery (See instructions) — $
- ☐ Declared Value For Carriage — $ _____ Amount — Contents are automatically protected up to $100. For declared value over $100, see instructions. — $
- ☐ C.O.D. — If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. — $ _____ Amount — $

7 ADDITIONAL HANDLING CHARGE ☐ An Additional Handling Charge applies for certain items. See instructions. — $

TOTAL CHARGES — $

8 METHOD OF PAYMENT

Bill Shipper's Account Number	Bill Receiver (Domestic Only)	Bill Third Party (Domestic Only)	Credit Card (Domestic Only)	Check
☒	☐	☐	☐	☐

Credit Card: American Express, Diner's Club, MasterCard, Visa

If NO (Box 1) — Record Account No. in Section 9

9 RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. — EXPIRATION DATE

THIRD PARTY'S COMPANY NAME

STREET ADDRESS

CITY AND STATE — ZIP CODE

The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. It certifies that the commodities, technology or software were exported from the United States in accordance with the export administration regulations. Diversion contrary to U.S. law is prohibited.

10 SHIPPER'S SIGNATURE X Denise Davis

All shipments are subject to the terms contained in the UPS Tariff and Terms and Conditions of Service, which are available at ups.com and local UPS offices.

DATE OF SHIPMENT: 5/25/07

0101911202609 1/05 S

SHIPPER'S COPY

UPS Next Day Air®
UPS Worldwide Express℠
Shipping Document

See Instructions on back. Visit UPS.com® or call 1-800-PICK-UPS® (800-742-5877) for additional information and Terms and Conditions.

TRACKING NUMBER 1Z 548 8W1 22 1003 4500

1 SHIPMENT FROM

SHIPPER'S UPS ACCOUNT NO. 5488W1

REFERENCE NUMBER

NAME: Denise Davis — TELEPHONE: 517-241-9328

COMPANY: DLEG/BCCFS

STREET ADDRESS: 2501 WOODLAKE CIRCLE

CITY AND STATE: OKEMOS — ZIP CODE: MI 48864-5976

2 EXTREMELY URGENT DELIVERY TO

NAME: James McLachlin — TELEPHONE: (231) 633-9999

COMPANY: JDJ Ranch

STREET ADDRESS: 10181 Evergreen Road — DEPT./FLR. — Residential Delivery ☐

CITY AND STATE (DO NOT USE COUNTRY ABBREVIATIONS): Evart, MI — ZIP CODE: 49631

3 WEIGHT — Weight (Enter "LTR" if letter): 2Lbs. — Dimensional Weight (If Applicable): — Large Air Package ☐

4 SHIPPER RELEASE ☐

5 TYPE OF SERVICE — CHARGES

- ☒ Next Day Air — ☐ Express (Int'l) — $
- For Worldwide Express Shipments: Mark an "X" in this box if shipment only contains documents of no commercial value. ☐ Documents Only

6 OPTIONAL SERVICES

- ☐ Saturday Pickup (See Instructions) — ☐ Saturday Delivery (See Instructions) — $
- ☐ Declared Value For Carriage — $ _____ Amount — Carriers are automatically protected up to $100. For declared value over $100, see instructions. — $
- ☐ C.O.D. — If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. — $ _____ Amount — $

7 ADDITIONAL HANDLING CHARGE ☐ An Additional Handling Charge applies for certain items. See instructions. — $

TOTAL CHARGES — $

8 METHOD OF PAYMENT

- ☒ Bill Shipper's Account in Section 1
- ☐ Bill Receiver — ☐ Bill Third Party — ☐ Credit Card (American Express, Diner's Club, MasterCard, Visa) — Domestic Only — Record Account No. in Section 9
- ☐ Check

9 RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. — EXPIRATION DATE

THIRD PARTY'S COMPANY NAME

STREET ADDRESS

CITY AND STATE — ZIP CODE

The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. It certifies that the commodities, technology or software were exported from the United States in accordance with the export administration regulations. Diversion contrary to U.S. law is prohibited.

10 SHIPPER'S SIGNATURE X Denise Davis — DATE OF SHIPMENT 5/25/10

All shipments are subject to the terms contained in the UPS Tariff and Terms and Conditions of Service, which are available at ups.com and local UPS offices.

0101911202609 1/05 S

SHIPPER'S COPY

UPS Next Day Air®
UPS Worldwide Express℠

Shipping Document

See instructions on back. Visit UPS.com® or call 1-800-PICK-UPS® (800-742-5877) for additional information and Terms and Conditions.

TRACKING NUMBER 1Z 548 8W1 22 1003 4537

1 SHIPMENT FROM

Shipper's UPS Account No.: 5488W1

Reference Number:

Name: Denise Davis — Telephone: 517-241-9328

Company: DLEG/BCCFS

Street Address: 2501 WOODLAKE CIRCLE

City And State: OKEMOS — ZIP Code: MI 48864-5976

2 EXTREMELY URGENT DELIVERY TO

Name: Kenneth Lawless — Telephone: (517) 372-0940

Company: Clark Coshstruction

Street Address: 3535 Moores River Drive — Dept./Flr.: — Residential Delivery: ☐

City And State (Include Country If International): Lansing MI — ZIP Code: 48911

3 WEIGHT — Weight (Enter "LTR" if Letter): Ltr. — Dimensional Weight (If Applicable): — Large Air Package: ☐

4 SHIPPER RELEASE: ☐

5 TYPE OF SERVICE — CHARGES

- ☒ Next Day Air — ☐ Express (Int'l) — $
- For Worldwide Express Shipments Mark an "X" in this box if shipment only contains documents of no commercial value. ☐ Documents Only

6 OPTIONAL SERVICES

- ☐ Saturday Pickup (See instructions.) — ☐ Saturday Delivery (See instructions.) — $
- ☐ Declared Value For Carriage — Contents are automatically protected up to $100. For declared value over $100, see instructions. $ _____ Amount — $
- ☐ C.O.D. — If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. $ _____ Amount — $

7 ADDITIONAL HANDLING CHARGE: ☐ An Additional Handling Charge applies for certain items. See instructions. — $

TOTAL CHARGES — $

8 METHOD OF PAYMENT (Bill Shipper's Account Number ☒ in Section 1)

- ☐ Bill Receiver (Domestic Only) — ☐ Bill Third Party (Domestic Only) — ☐ Credit Card (American Express, Diner's Club, MasterCard, Visa) — Record Account No. in Section 9
- ☐ Check

9 RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. — Expiration Date:

Third Party's Company Name:

Street Address:

City And State: — ZIP Code:

The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. The shipper certifies that these commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

10 SHIPPER'S SIGNATURE X Denise Davis

All shipments are subject to the terms contained in the UPS Tariff and Terms and Conditions of Service, which are available at ups.com and local UPS offices.

Date Of Shipment: 5/25/07

0101911202609 1/05 S

SHIPPER'S COPY

UPS Next Day Air®
UPS Worldwide Express℠

Shipping Document

See instructions on back. Visit UPS.com® or call 1-800-PICK-UPS® (800-742-5877) for additional information and Terms and Conditions.

TRACKING NUMBER 1Z 548 8W1 22 1003 4519

1 SHIPMENT FROM

Shipper's UPS Account No.: 5488W1

Reference Number:

Name: Denise Davis — Telephone: 517-241-9328

Company: DLEG/BCCFS

Street Address: 2501 WOODLAKE CIRCLE

City And State: OKEMOS — ZIP Code: MI 48864-5976

2 EXTREMELY URGENT DELIVERY TO

Name: Don Pratt — Telephone: (248) 425-5770

Company: Wake Pratt Construction Co.

Street Address: 1080 N. Opdyke, Suite 200 — Dept./Flr.: — Residential Delivery: ☐

City And State (Include Country If International): Auburn Hills MI — ZIP Code: 48326

3 WEIGHT — Weight (Enter "LTR" if Letter): Ltr. — Dimensional Weight (If Applicable): — Large Air Package: ☐

4 SHIPPER RELEASE: ☐

5 TYPE OF SERVICE — CHARGES

- ☒ Next Day Air — ☐ Express (Int'l) — $
- For Worldwide Express Shipments Mark an "X" in this box if shipment only contains documents of no commercial value. ☐ Documents Only

6 OPTIONAL SERVICES

- ☐ Saturday Pickup (See instructions.) — ☐ Saturday Delivery (See instructions.) — $
- ☐ Declared Value For Carriage — Contents are automatically protected up to $100. For declared value over $100, see instructions. $ _____ Amount — $
- ☐ C.O.D. — If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. $ _____ Amount — $

7 ADDITIONAL HANDLING CHARGE: ☐ An Additional Handling Charge applies for certain items. See instructions. — $

TOTAL CHARGES — $

8 METHOD OF PAYMENT (Bill Shipper's Account Number ☒ in Section 1)

- ☐ Bill Receiver (Domestic Only) — ☐ Bill Third Party (Domestic Only) — ☐ Credit Card (American Express, Diner's Club, MasterCard, Visa) — Record Account No. in Section 9
- ☐ Check

9 RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. — Expiration Date:

Third Party's Company Name:

Street Address:

City And State: — ZIP Code:

The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. The shipper certifies that these commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

10 SHIPPER'S SIGNATURE X Denise Davis

All shipments are subject to the terms contained in the UPS Tariff and Terms and Conditions of Service, which are available at ups.com and local UPS offices.

Date Of Shipment: 5/25/07

UPS Next Day Air® UPS Worldwide Express™

Shipping Document

See instructions on back. Visit UPS.com® or call 1-800-PICK-UPS® (800-742-5877) for additional information and Terms and Conditions.

TRACKING NUMBER 1Z 548 801 22 1003 4528

1 SHIPMENT FROM

Shipper's UPS Account No.: 5488W1

Reference Number:

Name: Denise Davis — Telephone: 517-241-9328

Company: DLEG/BCCFS

Street Address: 2501 WOODLAKE CIRCLE

City And State: OKEMOS — ZIP Code: MI 48864-5976

2 EXTREMELY URGENT DELIVERY TO

Name: Robert A. DeBerardino — Telephone: (313) 563-0223

Company:

Street Address: 421 N. Denwood — Dept./Flr.: — Residential Delivery: ☐

City And State (Include Country If International): Dearborn, MI — ZIP Code: 48128

3 WEIGHT — Weight (Enter "LTR" if Letter): Ltr. — Dimensional Weight (If Applicable): — Large Air Package: ☐

4 SHIPPER RELEASE ☐

5 TYPE OF SERVICE — Charges

- ☒ Next Day Air — ☐ Express (Int'l)
- For Worldwide Express Shipments Mark an "X" in this box if shipment only contains documents of no commercial value. ☐ Documents Only — $

6 OPTIONAL SERVICES

- ☐ Saturday Pickup (See instructions.) — ☐ Saturday Delivery (See instructions.) — $
- ☐ Declared Value For Carriage — Contents are automatically protected up to $100. For declared value over $100, see instructions. $ _____ Amount — $
- ☐ C.O.D. — If C.O.D., enter amount to be collected and attach completed UPS C.O.D. tag to package. $ _____ Amount — $

7 ADDITIONAL HANDLING CHARGE ☐ An Additional Handling Charge applies for certain items. See instructions. — $

TOTAL CHARGES — $

8 METHOD OF PAYMENT

- ☒ Bill Shipper's Account Number (In Section 1)
- ☐ Bill Receiver (Domestic Only) (Record Account No. in Section 9)
- ☐ Bill Third Party (Domestic Only) (Record Account No. in Section 9)
- ☐ Credit Card (Record Account No. in Section 9) — American Express, Diner's Club, MasterCard, Visa
- ☐ Check

9 RECEIVER'S/THIRD PARTY'S UPS ACCT. NO. OR MAJOR CREDIT CARD NO. — Expiration Date /

Third Party's Company Name:

Street Address:

City And State: — ZIP Code:

The shipper authorizes UPS to act as forwarding agent for export control and customs purposes. The shipper certifies that these commodities, technology or software were exported from the United States in accordance with the Export Administration Regulations. Diversion contrary to U.S. law is prohibited.

10 SHIPPER'S SIGNATURE X Denise Davis

All shipments are subject to the terms contained in the UPS Tariff and Terms and Conditions of Service, which are available at ups.com and local UPS offices.

Date of Shipment: 3/25/07

0101911202609 1/05 S

SHIPPER'S COPY

MICHIGAN CONSTRUCTION CODE COMMISSION
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF CONSTRUCTION CODES
P.O. BOX 30254
LANSING, MI 48909
(517) 241-9328

APPEAL DOCKET NO: CCC-PRD 07-006

Petitioner, Mecosta County Building and Zoning Department

VS

Respondent, JDJ Ranch

NOTICE TO RECONVENE

Date: November 7, 2007
Time: 10:30 A.M.
Location: 2501 Woodlake Circle
Okemos, MI 48864
Conference Room 3, 1st Floor

Pursuant to the authority contained in 1972 PA 230, Section 16, as amended, the Michigan Construction Code Act (MCLA 125.1516):

The hearing will be reconvened in response to the request of Dennis Burrick, dated May 21, 2007, to appeal the May 3, 2007 decision of the Mecosta County Building Board of Appeals granting relief from the 2003 Michigan Building Code (for an A-4 use group building). Written arguments will not be accepted after the date of this notice.

All parties are expected to be prepared to present competent evidence regarding the disputed issues. This hearing will be conducted in accordance with procedures applicable to contested cases and 1969 PA 306 of the Administrative Procedures Act.

Exhibits (Previously Distributed, Except as Noted):

Exhibit 1 - Application for Construction Code Appeal
Exhibit 2 - Letter from Dennis Burrick to Construction Code Appeal
Exhibit 3 - Mecosta County Building Board of Appeals Meeting Minutes of May 3, 2007
Exhibit 4 - Letter from Ronald Richards, Jr. to Dennis Burrick with enclosures
Exhibit 5 - Copy of paces 3-8 of the 2003 Michigan Building Code
Exhibit 6 - Letter from Ronald Richard, Jr. to Todd Cordill with Enclosures
Exhibit 7 - Respondent JDJ Ranch's Request to Dismiss Appeal
Exhibit 8 - Respondent JDJ Ranch's Alternative Response Opposing Mecosta County Board of Commissioners Appeal
Exhibit 9 - Certificate of Service
Exhibit 10 - Affidavit of John Todd
Exhibit 11 - Affidavit of Betty Goldammer
Exhibit 12 - Petitioner's Response to Request Dismiss Appeal
Exhibit 13 - Respondent JDJ Ranch's Brief Supporting Dismissal of Appeal for Lack of Standing with Transmittal of Letter and Certificate of Service

Exhibit 14 - Supplemental Brief Supporting Dismissal
Exhibit 15 - Motion to File Amicus Brief by Michigan Farm Bureau
Exhibit 16 – Respondent JDJ Ranch's Second Supplemental Authority of September 4, 2007
Exhibit 17 – Petitioners response to JDJ Ranch's Second Supplemental Authority of September 4, 2007 (Attached)

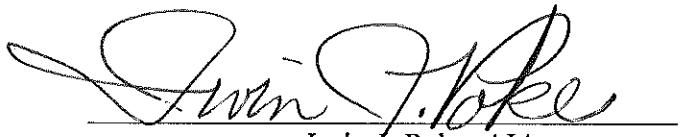
MICHIGAN CONSTRUCTION CODE COMMISSION

Irvin J. Poke, AIA, Chief
Chief, Plan Review Division

09/06/07
Date

PROOF OF SERVICE

I, Irvin J. Poke, AIA, hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, e-mail and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 6th day of September 2007.



Irvin J. Poke, AIA
Plan Review Division

Don Pratt
Wake-Pratt Construction Co.
1080 N. Opdyke, Suite 200
Auburn Hills, MI 48326

Robert A. DeBerardino
421 N. Denwood
Dearborn, MI 48128

Kenneth G. Lawless
Clark Construction
3535 Moores River Drive
Lansing, MI 48911

Peter M. Jaklevic
Mecosta County Prosecuting Attorney
Attorney for the Petitioner
400 Elm Street
Big Rapids, MI 49307

Ronald D. Richards, Jr.
Foster, Swift, Collins, & Smith, PC
Attorneys for Respondent
313 South Washington
Lansing, MI 48933

MICHIGAN CONSTRUCTION CODE COMMISSION
BUREAU OF CONSTRUCTION CODES & FIRE SAFETY
2501 WOODLAKE CIRCLE
OKEMOS, MI 48864

APPEAL DOCKET NO: CCC-PRD 07-006

Mecosta County
Petitioner

VS

JDJ Ranch
Respondent

NOTICE OF ADJOURNMENT
(CORRECTED)

The respondent requested an adjournment due to a key material witness, James McLachlan, being unavailable November 7, 2007. Due to Mr. McLachlan being the owner of the property, which is the subject of this case, he is a party in the subject action. A delay in hearing this matter poses no threat to the health, safety, and welfare of any person, because the commission panel advised that the facility not be used for exhibit and assembly while this matter is pending. Petitioner's objection is noted.

Therefore, the hearing scheduled for November 7, 2007 is **ADJOURNED**. The hearing for the above captioned matter is rescheduled for January 9, 2008, 10:30 a.m. at 2501 Woodlake Circle Conference Room 3.

If there are any questions contact the Plan Review Division at (517) 241-9328.

MICHIGAN CONSTRUCTION CODE COMMISSION

for

Irvin J. Poke, AIA
Chief, Plan Review Division

8 November 2007
Date

PROOF OF SERVICE

I, Margarita Torres, hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, e-mail and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 08th day of November 2007.

Margarita Torres

Margarita Torres
Plan Review Division

Don Pratt
Wake-Pratt Construction Co.
1080 N. Opdyke, Suite 200
Auburn Hills, MI 48326

Robert A. DeBerardino
421 N. Denwood
Dearborn, MI 48128

Kenneth G. Lawless
Clark Construction
3535 Moores River Drive
Lansing, MI 48911

Dennis J. Burrick
Mecosta County Building Department
14485 Northland Drive
Big Rapids, MI 49307

James McLachlin
JDJ Ranch
10481 Evergreen Road
Evart, MI 49631

MICHIGAN CONSTRUCTION CODE COMMISSION
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
BUREAU OF CONSTRUCTION CODES

P.O. BOX 30254
Lansing, MI 48909

Appeal Docket No.
CCC-PRD 07-006

Mecosta County Board of Commissioners
Petitioner

vs

JDJ Ranch
Respondent

ORDER OF THE MICHIGAN CONSTRUCTION CODE COMMISSION

Background:

In 2004 Mr. James McLachlin constructed an agricultural building in excess of 56,000 square feet under the agricultural exemption in 1972 PA 230, Section 2(f), MCL 125.1502(f). The agricultural exemption allows the construction of buildings incidental to agriculture to be constructed without construction permits as was the case for this building. Consequently there were no inspections and therefore no certificate of occupancy was issued.

In August of 2006 the Mecosta County Building and Zoning Department became aware of rodeos being conducted at this facility. The county zoning administrator and building official went to 10418 Evergreen and informed Mr. McLachlin that allowing the public into his structure changed the use of the structure and it was no longer an architectural building. The Mecosta County Building and Zoning department informed Mr. McLachlin that he would need to rezone his property to enable him to have a business on his property. A building permit would be required to bring his structure into compliance with the 2003 Michigan Building Code to be used for assembly purposes. Mr. McLachlin insisted that the building is agricultural and retained legal counsel, Foster, Swift, Collins & Smith, P.C.

On March 30, 2007 Mr. McLachlin's attorney submitted a two part request for a variance/appeal to the county board of appeals.

1. Find that the A-4 requirements in the code do not apply to the Agricultural Facility since the Agricultural Facility meets the definition of "agricultural building" in the Code and such a finding is consistent with the State Construction Code Act, MCL 125.1501 et seq.

2. Alternatively, even if the Board of Appeals determines that the Agricultural Facility can be construed as a A-4 building for some of the Proposed Events, the Board of Appeals should grant JDJ Ranch a variance from all A-4 requirements in the Code and allow JDJ Ranch to continue holding the Proposed Events – which in aggregate account for about 1% of the total use of the Agricultural Facility - without further actions. This step is appropriate for several reasons, including that (a) the Agricultural Facility is unquestionably safe and structurally sound and (b) doing so is consistent with the manner the County treated (or did not treat, as the case may be) the other similarly situated buildings in the County (Ichiban Ranch and others).

The Mecosta County Building Board of Appeals (BBA) assembled May 3, 2007 to hear the two part appeal on behalf of James McLachlin, owner of JDJ Ranch. The BBA did not find that the building was an agricultural building, but did wave the requirements of the Michigan Building Code (MBC) for an assembly use A-4. The decision of the BBA was not supported by a statement of reasoning.

The Mecosta County Board of Commissioners, which is authorized to enforce the Michigan Building Code and certain provisions of 1972 PA 230, MCL 125.1501 et seq (the act), directed its building official, Dennis J. Burrick, to appeal the decision of the BBA to the State Construction Code Commission.

Procedural Findings:

On consideration of the request dated May 21, 2007, from Dennis J. Burrick, Mecosta County building official, a hearing before a panel of the Construction Code Commission was held June 19, 2007, 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:

Robert Mickevicius	Representing	Not Stated
Dennis Burrick	Representing	Mecosta County
Marilynn Varge	Representing	Mecosta County
Tom Ruelle	Representing	Non Legible
Ron Richards	Representing	JDJ Ranch
Linda Howard	Representing	Mecosta County
James E. McLoella	Representing	JDJ Ranch
Bruce Robinson	Representing	JDJ Ranch
Patrick W. Kissell	Representing	JDJ Ranch
Dennis Bryant	Representing	JDJ Ranch
Aaron Maney	Representing	JDJ Ranch
Shane Helmer	Representing	JDJ Ranch

After hearing from both sides in this matter the panel tabled the matter and requested that Mecosta County file a response to the JDJ Ranch brief on the county's lack of standing. The brief was to be filed not later than July 3, 2007. JDJ Ranch would then have 2 weeks to answer the county's brief.

The panel scheduled to reconvene November 7, 2007. The respondent, through his attorney, requested an adjournment because he would not be available November 7, 2007. The panel granted the adjournment and scheduled to reconvene on January 9, 2008. Present were:

Ron Richards	Representing	JDJ Ranch
Gary A. Shripka	Representing	JDJ Ranch
James B. Jensen, Jr.	Representing	JDJ Ranch
Rebecca Hirschman	Representing	JDJ Ranch
James E. McLachlan	Representing	JDJ Ranch
Matt Hischman	Representing	JDJ Ranch
Aaron Maney	Representing	JDJ Ranch
Patrick Maney	Representing	JDJ Ranch
William Routley	Representing	Mecosta County
Paul Bullock	Representing	Mecosta County
Peter M. Jaklevic	Representing	Mecosta County
Dennis J. Burrick	Representing	Mecosta County

Issue:

Petitioner contends that the Mecosta County Building Board of Appeals by waiving the requirements of the Michigan Building Code Section 303.1 for assembly "A-4" use set aside the code and did not maintain its intent.

Findings:

The building in question is 56,000 square feet without fire sprinklers of type V (wood frame) construction and has a partial second floor. It was constructed to the standards for agricultural buildings. Petitioner alleges that the building was built under the agricultural exemption provided in 1972 PA 230, Section 2(f) which excludes buildings incidental to the use for agricultural purposes from the definition a building regulated under the act. And, that the respondent is using said building for other that agricultural purposes when rodeos, 4 H Club exhibits and wedding receptions are held in the building. These uses are regulated by the act and the MBC, Section 303.1 assembly uses; e.g. the rodeo is an A-4 (arena), the 4H Club exhibit is A-3 (exhibit hall) and the wedding reception an A-3 (dance halls) or an A-2 (banquet hall). Evidence was presented that the building is advertised as available for events for a fee. Also there is additional evidence that food and beverage are regularly sold at events held in the building.

Respondent contends that Mecosta County does not have standing because it does not have a material interest in the property. Further, they claim that the building is an agricultural building and is used for these other purposes only 1 percent of the time and should be exempt from the assembly requirements in the code. Respondent further alleged that the building was safe because there are 30 portable fire extinguishers spaced every 60 feet and there are 7 exit doors and 4 of them have panic hardware. Becky Hirschman, JDJ Ranch Events Coordinator, stated that there have been events at the subject building with as many as 500 attendees. Gary Shripka, a former building official, testifying for JDJ Ranch stated that the building does not meet the requirements of the MBC for an assembly building.

An assembly building of type V construction without fire sprinklers is limited to 10,500 square feet and an occupant load of 300. A building used for assembly purposes with an occupant load exceeding 300 and 56,000 square feet would require fire sprinklers and a non-combustible type I (2 hour fire resistance rated) construction, generally masonry or concrete. All doors would be required to have panic hardware. The structural strength provisions of MBC, Chapter 16 for assembly building are 30 percent higher than that required for agricultural buildings.

Standing

Before this Commission can consider the merits of this appeal, it must address the issue of standing. MCL 125.1516(1) provides that "[a]n interested person or interested persons' authorized agent may appeal a decision of a board of appeals to the commission within 10 business days after filing of the decision with the enforcing agency..." The statute does not explicitly define who is an "interested person." Petitioner, Mecosta Board of Commissioners, argues that it is an interested person because it is the party under MCL 125.1508b(1) responsible for the "administration and enforcement" of the State Construction Code Act, MCL 125.1501 *et seq*, within its boundaries. Petitioner also argues that it has the inherent authority to pursue the appeal. Conversely, Respondent, JDJ Ranch, contends that Petitioner cannot satisfy the constitutional standing requirements. See *Michigan Citizens for Water Conservation v Nestle Waters North American, Inc.*, 479 Mich 280; 737 NW2d 447 (2007).

Although it is a close question, Petitioner has standing to pursue an administrative appeal of the May 3, 2007 decision of the Mecosta County Building Board of Appeals. The County Board of Commissioners has the legal responsibility to enforce the State Construction Code Act in Mecosta County. Where a local board under its jurisdiction makes a decision that may place the safety of the county residents at risk, the County Board of Commissioners has the legal authority to challenge that decision. Moreover, the Board's members are property owners and residents of Mecosta County. They are interested persons within the meaning of MCL 125.1516(1).

Conclusions:

A building constructed for agricultural purposes and used for exhibits, even when the exhibit is of agricultural products and live stock is an assembly building, as the event is for the assemblage of the public. This is evident in the exhibit buildings for the Michigan State Fair and the various county fairs that are classified as assembly buildings. The fact that a building is used for assembly only 1 percent of the time is not mitigating, as a disaster may occur when there are hundreds of people in attendance of an event.

Buildings incidental to the use of agricultural purposes are exempt from regulation under 1972 PA 230. Agricultural or agricultural purposes are defined in MCL 125.1502(a) as follows:

> "Agricultural or agricultural purposes" means of, or pertaining to, or connected with, or engaged in agriculture or tillage which is characterized by the act or business of cultivating or using land and soil for the production of crops for the use of animals or humans, and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.

The exemption for a building incidental to agricultural proposes from 1972 PA 230 and the Michigan Building Code is found in MCL 125.1502(f) by excluding such buildings in the definition which reads as follows.

> "Building" means a combination of materials, whether portable or fixed, forming a structure, affording a facility or shelter for use or occupancy by persons, animals, or property. Building does not include a building, whether temporary or permanent, incidental to the use for agricultural purposes of the land on which the building is located if it is not used in the business or retail trade. Building includes the meaning "or part or parts of the building and all equipment in the building" unless the context clearly requires a different meaning.

In order for a building to be exempt from 1972 PA 230 and the Michigan Building Code it must meet the definitions above. If a building is used at any time for purposes other than incidental to agriculture it is not exempt from the provisions of the act and the MBC. This is also supported in the MBC by the definition of agricultural building which reads as follows:

> **AGRICULTURAL, BUILDING.** A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public.

Furthermore, MBC, Section 302.4 reads

> **302.4 Spaces used for different purposes.** A room or space that is intended to be occupied at different times for different purposes shall comply with all the requirements that are applicable to each of the purposes for which the room or space will be occupied.

The subject building clearly is being used for assembly purposes and is engaged in retail trade. This cause the exemption under which it was built to evaporate, making the building subject to 1972 PA 230 and the Michigan Building Code. The subject act and the code regulate the construction, use and occupancy of buildings and structures. It is clear that if a building is used for multiple purposes it must meet the requirements for all purposes. The MBC clearly states in the definition of agricultural building that such building cannot be a place used by the public.

The Mecosta County Building Board of Appeals in its decision did not provide a statement of reasoning as required by MCL 125.1514. Furthermore, the decision is not consistent with the requirement set forth MCL 125.1515 that the substance of the code be maintained and the building performance is as intended by the code. The BBA essentially nullified the code and did so in an arbitrary and capricious manner.

Decision:

The subject building at the JDJ Ranch by admission of the owner, Mr McLachlin, was constructed to the requirements of an agricultural building. This causes the building to be inadequate to protect public safety in the event a disaster. Furthermore, the Mecosta County Building Board of Appeals committed an error in its decision to waive the requirements of the Michigan Building Code for assembly buildings, and not establishing how the intent of public safety is to be achieved.

THEREFORE, it is ordered that the request for relief is granted and the decision of the Mecosta Building Board of Appeals is reversed. The building at the JDJ Ranch shall not be used for assembly purposes until it is brought into compliance with the Michigan Building Code, Section 303 for assembly use. 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

3/10/08
Date

PROOF OF SERVICE

I, Denise Davis, hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, e-mail and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 14th day of March 2008.

Denise Davis

Denise Davis
Plan Review Division

Dennis J. Burrick
Mecosta County Building Department
14485 Northland Drive
Big Rapids, MI 49307

James McLachlin
JDJ Ranch
10481 Evergreen Road
Evart, MI 49631

State of Michigan
Department of Labor & Economic Growth
Bureau of Construction Codes
DOCKET HISTORY

Mecosta County Building and Zoning Department
vs
JDJ Ranch

Case Number: CCC-PRD 07-006
Agency: Bureau of Construction Codes
Division: Plan Review
Authority: 1972 PA 230, Subsection 125.1516

Received Date	Document Date	Mail/Event Date	Document Name
05/21/07	05/21/07		Application for Construction Code Appeal (Exhibit 1)
05/21/07	05/18/07		Letter from Dennis Burrick (Mecosta County Building Official) to Construction Code Appeal with Enclosures (Exhibit 2)
05/21/07	05/09/07		Minutes of May 3, 2007 Mecosta County Building Board of Appeals Meeting (Exhibit 3)
05/21/07	03/30/07		Letter from Ronald Richards, Jr. to Dennis Burrick with Enclosures (Exhibit 4)
05/21/07			Copy of Pages 3-8 of the 2003 Michigan Building Code (Exhibit 5)
	05/25/07	05/25/07	Notice of Hearing with Proof of Service
06/12/07	06/12/07		Letter from Ronald Richard, Jr. to Todd Cordill with Enclosures (Exhibit 6)
06/12/07	06/12/07		Respondent JDJ Ranch's Request to Dismiss Appeal (Exhibit 7)
06/12/07	06/12/07		Respondent JDJ Ranch's Alternative Response Opposing Mecosta County Board of Commissioners Appeal (Exhibit 8)
06/12/07	06/12/07		Certificate of Service (Exhibit 9)
		06/19/07	Hearing by the Panel of the Construction Code Commission.
	06/19/07		Attendance Sheet
06/19/07	06/18/07		Affidavit of John Todd (Exhibit 10)
06/19/07	06/18/07		Affidavit of Betty Goldammer (Exhibit 11)
	06/26/07		Transcript of the Hearing on June 19, 2007.
07/06/07	06/27/07		Petitioner's response to request to dismiss appeal (Exhibit 12)

Received Date	Document Date	Mail/Event Date	Document Name
07/12/07	07/10/07		Respondent JDJ Ranch's brief supporting dismissal of appeal for lack of standing with transmittal letter and certificate of service. (Exhibit 13)
	07/10/07	07/10/07	Letter to Dennis Burrick transmit audio tape of hearing with invoice
07/30/07	07/26/07		Letter to Irvin J. Poke from Ronald D. Richards, Jr.
08/20/07	08/16/07		Supplemental brief supporting dismissal (Exhibit 14)
09/05/07	09/05/07		Motion to file Amicus brief by Michigan Farm Bureau (Exhibit 15)
09/06/07	09/04/07		Respondent JDJ Ranch's second Supplemental Authority of September 4, 2007 (Exhibit 16)
09/06/07	09/05/07		Petitioners response to JDJ Ranch's second Supplemental Authority of September 4, 2007 (Exhibit 17)
	09/06/07	09/06/07	Notice to Reconvene with Proof of Service
10/31/07	10/31/07		Transmittal letter to Todd Cordill from Ronald Richard Jr.
10/31/07	10/31/07		Testimony of Gary Shripka (Exhibit 18)
10/31/07	10/31/07		Affidavit of Gary Shripka (Exhibit 19)
10/31/07	10/31/07		Testimony of James McLachlan (Exhibit 20)
10/31/07	10/31/07		Affidavit of James McLachlan (Exhibit 21)
10/31/07	10/31/07		Certificate of Service
10/31/07	10/31/07		Letter to Michigan Construction Code Commission from Lori Leudeman (Exhibit 22)
11/01/07	11/01/07		Letter to Irvin J. Poke from Ronald D. Richards Jr. requesting an adjournment.
	11/01/07	11/01/07	Notice of Adjournment with proof of service.
	11/08/07	11/08/07	Facsimile transmittal to Ron Richards
	11/08/07	11/08/07	Notice of Adjournment (corrected) with Proof of Services
	12/12/07	12/12/07	Facsimile Transmittal to Deanna Watson
12/27/07	12/21/07		Request for subpoenas from Peter M. Jaklevic

Received Date	Document Date	Mail/Event Date	Document Name
	01/03/08	01/03/08	Subpoena to James E. McLachlan with Proof of Service
	01/03/08	01/03/08	Subpoena to Becky Hirshman with Proof of Service
01/08/08	01/08/08		Transmittal letter to Todd Cordill from Ronald D. Richards Jr.
01/08/08	01/08/08		Motion to Quash subpoenas (Exhibit 23)
01/08/08	Undated		Protective Order (draft) (Exhibit 24)
01/08/08	01/08/08		Certificate of Service
		01/09/08	Hearing reconvened
	01/09/08		Attendance Sheet
01/11/08	01/11/08		Letter to Irvin J. Poke from Ronald Richards
01/28/08	01/28/08		Letter to Irvin J. Poke from Ronald Richards
01/29/08	01/29/08		Transcript of the 01/09/08 hearing (replaced by corrected transcript)
02/28/08	02/28/08		Letter to Irvin Poke from Ronald Richards
03/13/08	03/13/08		Corrected Transcript of 01/09/08 hearing
	03/10/08	03/14/08	Order of the Panel of the Construction code Commission
	03/14/08	03/14/08	Transmittal letter to Ronald Richards regarding corrected transcript
04/02/08	04/02/08		Letter to Irvin J. Poke from Ronald D. Richards Jr.
	03/14/08	04/04/08	Draft Docket History faxed to Ronald D. Richards Jr. with confirmation

I, Irvin J. Poke, Chief of the Plan Review Division of the Bureau of Construction Codes having the custody of the files and the records of the Construction Code Commission in this matter, do hereby certify that the above is a complete listing of the record. And, that the attached documents herein comprise the complete record before the Commission in the above captioned matter.

In testimony of the above, I sign this 5th day of September, 2008.

Irvin J. Poke, AIA
Chief, Plan Review Division

cc: Dennis Burrick w/ No Enclosures
James McLachlin w/ No Enclosures

Subscribed and sworn before me, this 5th day of September, 2008, a Notary Public in and for Ingham County, Michigan.

Holly A. Velez

Holly Velez
NOTARY PUBLIC

My Commission Expires: 1/10/2012

HOLLY A. VELEZ
NOTARY PUBLIC - STATE OF MICHIGAN
COUNTY OF INGHAM
My Commission Expires Jan. 10, 2012
Acting in the County of Ingham