

MICHIGAN CONSTRUCTION CODE COMMISSION
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
P.O. BOX 30254
Lansing, MI 48909

Kensington Valley Ice House
Petitioner

Appeal Docket No.
CCC-PRD-13-003

vs

Livingston County Building Department
Respondent

ORDER OF THE MICHIGAN CONSTRUCTION CODE COMMISSION

Background:

Kensington Valley Ice House appeals the September 16, 2013 decision of the Livingston County Board of Appeals whereby a denial was issued to the request of the Kensington Valley Ice House appealing the Livingston County Building Department applications of Sections 102.6 (Existing Structures), 3403 (Additions), and 3404 (Alterations) of the 2009 Michigan Building Code (MBC). In its plan review letters of May 28, 2013 and January 23, 2012 the Livingston County Building Department listed its plan review determinations related to construction documents for alteration work at the existing ice rink building located at 10540 Citation Drive in Brighton Township, Michigan. Among its plan review findings and determination, the Livingston County Building Department required that an automatic sprinkler system be installed throughout the existing ice rink #3 (east wing) of the building. The scope of the alteration work is to add balcony seating along one side of the ice rink with a connecting walkway at the ice rink #1 wing of the existing building. The existing building was constructed without the installation of an automatic sprinkler system, but has extra exits at the three ice rink areas.

Our July 22, 2013 Kensington Valley Ice House Skating Arena, Inc. applied for a building code appeal with the Livingston County Building Department. The appeal was heard by the board of appeals on August 20, 2013. On September 16, 2013 a document entitled Livingston County Construction Board of Appeals Decision was issued by the board of appeals, consisting of minutes of the hearing. No statement of reasons for the denial of the appeal was issued. This is not in keeping with 1972 Public Act 230, Section 125.1514 which states:

The board of appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the enforcing agency from whom the appeal was taken not more than 30 days after submission of the appeal.

Procedural Findings:

On consideration of the request dated September 24, 2013, from Ms. Catherine Riesterer, Attorney (on behalf of Kensington Valley Ice House), a hearing before a panel of the Construction Code Commission was held November 6, 2013, 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:

Catherine Riesterer	representing Kensington Valley Ice House
Mark Schaffer	representing Kensington Valley Ice House
Jim Sokol	representing Kensington Valley Ice House
Briar Siljander	representing Kensington Valley Ice House
Michael O'Brian	representing Brighton Area Fire
James Rowell	representing Livingston County Building Department
Dan Drew	representing Livingston County Building Department
William J. Benoit Jr.	representing Construction Code Commission – Panel of Appeal
Frederick Butters	representing Construction Code Commission – Panel of Appeal
Roger Donaldson	representing Construction Code Commission – Panel of Appeal
Todd Cordill	representing Bureau of Construction Codes
Kathy Cosgray	representing Bureau of Construction Codes

Issue:

Is an automatic sprinkler system required throughout an existing building (undergoing alterations) that has been in continued use covered by a valid certificate of occupancy?

Findings:

The building in question is an existing ice arena building with three ice rinks and ancillary spaces consisting of spectator seating, locker rooms, restrooms, restaurant, pro shop and lobby area, constructed in 1999. The work was completed in accordance with the 1996 BOCA National Building Code under the jurisdiction of the Township of Brighton (as enforcing agency) An automatic sprinkler system was required at the time for the assembly use ice arenas, (except immediately at the skating rinks), but was not installed due to inadequate water supply from wells on site. There are additional exists provided at each ice rink area. The project work in this existing building consists of alterations to locker rooms and the addition of balcony seating at the west side of ice rink #3. The design for this work includes automatic sprinkler coverage at the balcony and the connecting walkway. Adequate means of egress are in place for the balcony. The design of the proposed balcony at ice rink #3 will have automatic sprinkler coverage.

Conclusions:

Per 2009 MBC Section 3404.1 (Alterations), an existing building that is undergoing alterations is required to comply with the requirements of the code for new construction only in those areas being altered, provided that the balance of the building remains no less compliant with the code than the existing building condition prior to the alteration work. Also, per the 1996 BOCA National Building Code, Section 904.2, and the 2009 MBC, Section 903.2.1.4, an automatic sprinkler system is required for a new building of Use Group A with a fire area in excess of 12,000 square feet. However, an exception for both these code sections listed states that an automatic sprinkler system is not required at participant sport areas where the main floor of the participant sport area is at the level of exit discharge of the main entrance. For new construction of an indoor skating rink, 2009 MBC, Section 903.2.1.4 Group A-4 (skating rinks) reads as follows:

An automatic sprinkler system shall be provided for Group A-4 occupancies where one of the following conditions exists:

- 1. The fire area exceeds 12,000 square feet (1115 m²)*
- 2. The fire area has an occupant load of 300 or more; or*
- 3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.*

The subject alteration project adding balcony seating has condition number 3 in its scope of work.

Decision:

The Livingston County Building Department erred in its plan review determination in letters of May 28, 2013 and January 23, 2012 requiring that the entire existing subject building have an automatic sprinkler system. The Livingston County Board of Appeals failed to issue a written statement of reasons, as required by 1972 PA 230, Section 125.1514, for its denial of the appeal of the plan review determination submitted by Kensington Valley Ice House.

THEREFORE, it is ordered that the denial of the appeal by Livingston County Board of Appeals is modified. The denial of the appeal is modified to affirm that an automatic sprinkler system is required, but only at the proposed balcony and connecting walkway for ice rink #3 (and not throughout the entire existing building). Thus, the balcony design is in compliance with MBC, Section 3404.1 that states: *Alterations shall be such that the existing building or structure is no less complying with the provisions of this code than the existing building or structure was prior to the alteration.* 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.

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MICHIGAN CONSTRUCTION CODE COMMISSION

William R. Benoit, Jr. Chairperson

Panel of Appeals

11-26-2013

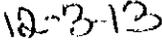
Date

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information, and belief, that a copy of the foregoing document was served on this date upon all parties and/or attorneys of record in this matter by email to those parties employed by the State of Michigan and by first class mail to the remaining parties at their respective addresses as disclosed below.



Kathy Cosgray, Secretary
Plan Review Division
Bureau of Construction Codes



Date

Mr. Jim Rowell, Building Official
Livingston County Building Department
2300 E. Grand River
Suite 104
Howell, MI 48843

Ms. Catherine A. Riesterer
Cooper & Riesterer PLC
7960 Grand River Ste 270
Brighton, MI 48114

BCC Administration