

ORDER OF THE MICHIGAN CONSTRUCTION CODE COMMISSION
Appeal Docket No: CCC-PRD-14-001

Wolverine Development Corporation,
Petitioner

vs.

City of Lansing Building and Safety Department,
Respondent

May 1, 2014

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 e-mail to those parties employed by the State of Michigan and by first class mail and e-mail (where an e-mail address is listed herein) to the remaining parties at their respective addresses as disclosed below.



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**MICHIGAN CONSTRUCTION CODE COMMISSION
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
P.O. BOX 30254
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Date Mailed from BCC: May 2, 2014

APPEAL DOCKET NO: CCC-PRD-14-001

Wolverine Development Corporation
Petitioner

vs.

City of Lansing Building and Safety Department
Respondent

ORDER OF THE MICHIGAN CONSTRUCTION CODE COMMISSION

Background:

Wolverine Development Corporation appeals the March 11, 2014 decision of the City of Lansing, Building Board of Appeals whereby a denial was issued to the request of Wolverine Development Corporation appealing the City of Lansing Building Safety Department application of 2009 Michigan Building Code (MBC) Section 903.2.7.4. Group M (automatic sprinkler systems). In its plan review letter (Exhibit B, 2) the City of Lansing Building Safety Department listed its plan review determinations related to construction documents for a proposed building at 6527 South Cedar Street in Lansing, Michigan. Among its plan review findings and determination, the City of Lansing Building and Safety Department required that an automatic sprinkler system be installed throughout the proposed building.

On February 19, 2014 Wolverine Development Corporation applied for a building code appeal with the City of Lansing Building Safety Department. The appeal was heard by the City of Lansing Building Board of Appeals on March 11, 2014. On March 20, 2014 a document entitled Official Proceedings of the City of Lansing Building Board of Appeals was issued by the City of Lansing consisting of minutes (draft) of the hearing.

Procedural Findings:

On consideration of the request dated March 18, 2014, from Mr. Colin W. Maguire, Esq. (on behalf of Wolverine Development Corporation), a hearing before a panel of the Construction Code Commission was held April 2, 2014, 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.

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Present were:

Colin W. Maguire	representing Wolverine Development Corporation
Joseph Maguire	representing Wolverine Development Corporation
Kevin Roragen	representing Wolverine Development Corporation
Stanley Samuel	representing Wolverine Development Corporation
James E. Bennett	representing City of Lansing Building and Safety Department
Yolanda Bennett	representing City of Lansing Building and Safety Department
Brad Drury	representing City of Lansing Building and Safety Department
Bruce Odom	representing City of Lansing Fire Department
Jon Snyder	representing City of Lansing Building and Safety Department
William 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
Matthew Reno	representing Construction Code Commission
Todd Cordill	representing Bureau of Construction Codes
Stanley Skopek	representing Bureau of Construction Codes
Kathy Cosgray	representing Bureau of Construction Codes

At the commencement of the hearing, Matthew Reno stated that he could not serve on the panel of the commission as he recently rendered an application of the MBC for a similar project for retail display and sale of mattresses as the building official in Saginaw Charter Township. Thus, he disqualified himself from serving on the panel of the Construction Code Commission.

Issue:

Is a mercantile occupancy used only for the display and sale of mattresses and box springs (or mattress foundations) subject to the requirement of MBC Section 903.2.7.4 for an automatic sprinkler system in a mercantile occupancy that is used for the display and sale of upholstered furniture?

Findings:

The building in question is a new single-story building of 5,950 square feet of gross area consisting of a mercantile use area of 3,800 square feet in area and an adjoining space of 2,150 square feet in area with a use yet to be determined. The subject building is currently under construction under a building permit issued by the City of Lansing for a building design that includes an automatic sprinkler system throughout the building. Construction of the building is currently in progress while this appeal is underway.

Findings: (continued)

The petitioner stated their belief that mattresses are not upholstered furniture. Per 16 CFR Part 1633, 2006, all mattresses manufactured after July 1, 2007 are required to meet this standard. Upholstery materials and assemblies are not required to meet the 16 CFR Part 1633, 2006 standard for mattresses. Therefore, the petitioner believes that the MBC Section 903.2.6 requirement for automatic sprinklers in a mercantile occupancy, that is used primarily for the display and sale of upholstered furniture, does not apply to a mercantile occupancy used for the display and sale of mattresses and box springs.

The respondent stated that they believe that mattresses are subject to the MBC Section 903.2.6 requirement for automatic sprinklers. The MBC does not specifically address what constitutes upholstered furniture. The respondent also cited fire loss history of mattress and furniture stores within the City of Lansing in buildings without coverage by automatic sprinkler systems. The loss from fire in such mercantile occupancies has been extensive to both buildings and contents.

Conclusions:

Per MBC Section 903.2.7 Group M (automatic sprinkler systems) an automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy that is used for the display and sale of upholstered furniture. The federal regulation 16 CFR Part 1633, 2006 governs mattresses sold via retail sales to the public since July 1, 2007. This standard addresses flame retardant properties for mattresses and box springs and does not include upholstered furniture. The proposed mercantile use will be for the sale and display of mattresses and box springs that are manufactured in compliance with 16 CFR Part 1633, 2006.

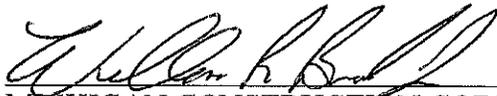
Exhibit 'E' contains documentation of the code change for the 2009 International Building Code, Section 903.2.6, condition 4 (to require an automatic sprinkler system) where a Group M occupancy is used for the display and sale of upholstered furniture. The reasoning statement for the addition of this code requirement draws a distinction between the fire performance of mattresses (now manufactured with the fire-blocking barriers) and that of furniture upholstery and cushion foam. The fire performance of upholstered furniture was inferior to that of mattresses under the same tests.

The MBC does not specifically address what constitutes upholstered furniture, but relies instead on definitions from dictionaries. Also, the MBC does not make distinctions between the display and storage of upholstered furniture and mattresses.

Decision:

The City of Lansing Building Safety Department was incorrect in its plan review letter (Exhibit B, 2) that determines that the display and retail sale of upholstered furniture includes mattresses and box springs.

THEREFORE, it is ordered that the denial of the appeal by the City of Lansing, Building Board of Appeals is overturned. The subject building need not have an automatic sprinkler system provided throughout if the mercantile occupancy is used for the display and sale of mattresses and box springs and not upholstered furniture.



MICHIGAN CONSTRUCTION CODE COMMISSION
William R. Benoit, Jr. Chairperson
Panel of Appeals

5-1-14

Date