

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

Beaumont Health System  
**Petitioner**

**Appeal Docket No.  
CCC-PRD-13-001**

vs

City of Royal Oak,  
**Respondent**

**ORDER OF THE MICHIGAN CONSTRUCTION CODE COMMISSION**

**Background:**

Beaumont Health System appeals the February 11, 2013 decision of the Royal Oak Building Code Board of Appeals whereby a denial was issued to the request of Beaumont Health System to appeal the City of Royal Oak Building Department interpretation of sections 202 (definition of ambulatory health care facility) and 422 of the 2009 Michigan Building Code (2009 MBC). In its plan review letter of March 30, 2012 the City of Royal Oak Building Department listed its plan review findings related to construction documents for alteration work at an existing building for the Rose Cancer Treatment Center. Among its plan review findings, the City of Royal Oak classified the entire existing building as an ambulatory health care facility. Beaumont Health System contends that only a portion of the existing building should be classified as an ambulatory health care facility as defined in section 202 of the code. Thus, only that portion of the building meeting the definition of an ambulatory health care facility should meet the requirements of section 422 of the code for an ambulatory health care facility.

On July 9, 2012 DiClemente Siegel Design (representing Beaumont Health System) applied for a building code appeal with the City of Royal Oak Building Department. The appeal was heard by the board of appeals on September 26, 2012. On February 11, 2013, a document entitled Agenda with Motions was issued by the board of appeals, listing a denial vote of 3-2 for the subject appeal. No statement of reasons for the denial of the appeal was issued by the board of appeals. This is not in keeping with 1972 PA 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 February 18, 2013, from Lee Mamola, a hearing before a panel of the Construction Code Commission was held March 15, 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:**

Julia Herschelman	representing	Beaumont Health System
Lee Mamola	representing	Beaumont Health System
Clint Hodgson	representing	Beaumont Health System
Timothy Poszywak	representing	Beaumont Health System
William Wilson	representing	Beaumont Health System
Jason Craig	representing	City of Royal Oak
William Benoit	representing	Construction Code Commission (Panel of Appeal)
Roger Donaldson	representing	Construction Code Commission (Panel of Appeal)
Matthew Reno	representing	Construction Code Commission (Panel of Appeal)
Irvin Poke	representing	Bureau of Construction Codes
Todd Cordill	representing	Bureau of Construction Codes
George Herrity	representing	Bureau of Construction Codes
Kathy Cosgray	representing	Bureau of Construction Codes

**Issue:**

If a portion of an existing building is altered and is adjacent to an ambulatory health care facility in that building does the entire building need to comply with the requirements of Section 422 of the 2009 Michigan Building Code (2009 MBC) for ambulatory health care facilities?

**Findings:**

The building in question is an existing 4 story medical office building with a basement constructed in two phases in 1985 (two stories) and 2000 (the remainder). The work in 2000 was completed in accordance with the 1996 BOCA National Building Code under the jurisdiction of the City of Royal Oak (as enforcing agency). The project work in this existing building is alterations of approximately 4,200 square feet at the first and second floors. The spaces subject to this alteration work do not involve procedures that will render patients incapable of self-

preservation. Only the existing third floor procedure rooms would have patients incapable of self-preservation in accordance with the definition of an ambulatory health care facility in 2009 MBC Section 202.

The definition of ambulatory health care facility in 2009 MBC Section 202 is:

*Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing or similar care on a less than 24-hour basis to individuals who are rendered incapable of self-preservation.*

Only a portion of the third floor of the building would contain an ambulatory health care facility

**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.

Further, 2009 MBC Section 302.1 states:

*Structures or portions of structures shall be classified with respect to occupancy in one or more of the groups (Use groups or occupancies) listed below. A room or space that is intended to be occupied at different times for different purposes shall comply with all of the requirements that are applicable to each of the purposes for which the room or space will be occupied.*

The subject building has uses throughout that are classified as Use Group "B" (business). Ambulatory health care facilities are listed in MBC Section 304.1 as a business occupancy. Only the portion of the building that is an ambulatory health care facility is required to comply with 2009 MBC Section 422 for ambulatory health care facilities.

**Decision:**

The City of Royal Oak Building Department erred in its plan review determination of March 30, 2012 that the entire subject building is classified as an ambulatory health care facility. The Royal Oak Building Board of Appeals failed to timely 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 DiClemente Siegel Design (on behalf of Beaumont Health System).

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**THEREFORE**, it is ordered that the denial of the appeal by the City of Royal Oak Building Code Board of Appeals is reversed. Thus, 2009 MBC Sections 202 (definition of ambulatory health care facility) and 422 apply only to the portion of the existing building (on the third floor) used as an ambulatory health care facility and not the entire building. It is further ordered that the City of Royal Oak and its Building Code Board of Appeals shall conduct all future appeals and issue the decisions in accordance with MCL 125.1514. 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 Benoit, Chair  
Panel of Appeals

3.29.13

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Date

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**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.

*Margarita Torres*

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Margarita Torres, Secretary  
Plan Review Division  
Bureau of Construction Codes

*April 1, 2013*

\_\_\_\_\_  
Date

Jason Craig  
City of Royal Oak  
211 Williams Street  
Royal Oak, MI 48068

Mr. Lee Mamola  
DiClemente Siegel Design Inc.  
28105 Greenfield Road  
Southfield, MI 48076