

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

DW28 Properties II Michigan, LLC

**Petitioner**

**Appeal Docket No.  
CCC-PRD-15-001**

vs

City of Monroe Construction Board of Appeals  
**Respondent**

**ORDER OF THE MICHIGAN CONSTRUCTION CODE COMMISSION**

**Background:**

DW28 Properties II Michigan, LLC appeals the December 18, 2014 decision of the City of Monroe Construction Board of Appeals whereby a denial was issued to the request of DW28 Properties II Michigan, LLC to appeal the application of 2009 Michigan Building Code (MBC) Sections 706.1 and 706.8.1 by the City of Monroe Building official. On March 26, 2014 the City of Monroe building official issued a letter to Mr. Don Wong of DW28 Properties II Michigan, LLC stating that the existing building at 407 S. Telegraph Road in Monroe, Michigan is in violation of MBC, Section 706.1.1 as it does not have a fire-resistance rated party wall between the two properties recently created by subdividing an existing building into Mercy Hospital Medical Center and the adjacent DW28 Properties II Michigan, LLC. An existing concrete masonry wall between the two properties does not exist as a party wall from both sides. On May 28, 2014 an engineering report was submitted by Sebench Engineering, Inc. outlining an alternate method of design using draftstops and automatic sprinklers along the entire length of the subject wall. The alternate design was not approved by the City of Monroe. On December 17, 2014 the City of Monroe Construction Board of Appeals heard and denied an appeal of the determination of disapproval, wishing to utilize the alternate design of automatic sprinklers in lieu of a party wall.

**Procedural Findings:**

On consideration of the request dated January 5, 2015, from Patricia Lyden, Esq.(on behalf of DW28 Properties Michigan, LLC) a hearing before a panel of the Construction Code Commission was held April 14, 2015, at the Bureau of Construction Codes, 2501 Woodlake

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Circle, Okemos, Michigan in accordance with the Stille-DeRossett-Hale Single State Construction Code Act, 1972 PA 230, Section 125.1516. The hearing adjourned on April 14, 2015 to be re-convened with 45 days in order for an alternate code path, under the Michigan Rehabilitation Code for Existing Building (MRCEB), to be submitted in writing to the panel of the commission unless the matter could be presented to, and approved by the City of Monroe building official in the meantime. The hearing re-convened on June 3, 2015.

**Present were:**

|                     |  |
|---------------------|--|
| Patricia Lyden      | representing DW28 Properties II Michigan, LLC              |
| Wayne Jewell        | representing DW28 Properties II Michigan, LLC              |
| Don Wong            | representing DW28 Properties II Michigan, LLC              |
| Wanda Wong          | representing DW28 Properties II Michigan, LLC              |
| Keith Woodcock      | representing City of Monroe Construction Board of Appeals  |
| Thomas Ready        | representing City of Monroe Construction Board of Appeals  |
| William Benoit, Jr. | representing Construction Code Commission- Panel of Appeal |
| Roger Donaldson     | representing Construction Code Commission- Panel of Appeal |
| Sean O'Neil         | representing Construction Code Commission- Panel of Appeal |
| Todd Cordill        | representing Bureau of Construction Codes                  |
| Stanley Skopek      | representing Bureau of Construction Codes                  |
| Kathy Cosgray       | representing Bureau of Construction Codes                  |

**Issue:**

Is a party wall (per MBC Section 706.1.1) required on a lot line between two adjacent buildings that are connected at the same lot line?

**Findings:**

The building in question is an existing single-story building of 67,746 connected buildings. An existing load-bearing concrete masonry wall stands to one side of the property line created between the two buildings, one low-bay and one high-bay comprising a stepped building condition. There are steel columns embedded in the existing wall. The high-bay building is currently occupied. The low-bay building is the subject of the appeal and is owned by DW28 Properties II Michigan, LLC. The petitioner presented an alternate code path for code compliance using the 2012 Michigan Rehabilitation Code for Existing Buildings proposing the use of a row of automatic sprinklers along the entire length of the existing load-bearing concrete masonry wall on the low-bay side of the wall. The petitioner stated their belief that the MRHC allows the adjacent buildings to exist without a double fire wall, but rather allows an exterior wall at the subject location which doesn't have the fire-resistance rating and structural stability.

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**Conclusions:**

Per MBC Section 706.1.1 any wall located on a lot line between adjacent buildings, which is used or adapted for joint service between the two buildings shall be constructed as a fire wall in accordance with Section 706. Party walls shall be constructed without openings and shall create separate buildings. The newly created property or lot line is located at one side of the existing load-bearing concrete masonry wall. Thus, it is not a fire wall for joint service between both buildings. MBC Section 101.3 states that the intent of the code is to establish minimum requirements to safeguard the public health, safety and general welfare. Further, MBC Section 104.1 allows the building official authority to render interpretations of the code that are in compliance with the intent and purpose of the code. The use of MRHC Section 1012 addresses change of occupancy and can be used for the subject situation with a change to a lesser hazard category. MRHC Section 1012.5.1.1 allows for a fire barrier to be used in lieu of a fire wall to subdivide an existing building into separate buildings, with several conditions that include protection with automatic sprinklers throughout the building. With the location of the lot line, the existing concrete masonry wall can be interpreted as an exterior wall for the high-bay portion of the building with a row of automatic sprinklers on the low-bay side of the subject wall acting as a substitute for opening protective per exception 3 of Section 1012.6.3.

**Decision:**

The City of Monroe Construction Board of Appeals decision of denial of the appeal has been addressed by an alternate code path using the MRHC.

**THEREFORE**, it is ordered that the denial of the appeal by the City of Monroe Construction Board of Appeals is overturned. The subject building need not have a double fire wall at the location where the existing building was subdivided with a lot line at the stepped building condition.



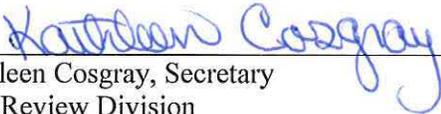
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MICHIGAN CONSTRUCTION CODE COMMISSION  
William Benoit, Chairperson  
Panel of Appeals

6-18-15

\_\_\_\_\_  
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 and first class mail at their respective addresses as disclosed below.

  
\_\_\_\_\_  
Kathleen Cosgray, Secretary  
Plan Review Division  
Bureau of Construction Codes

  
\_\_\_\_\_  
Date

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