



DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LT. GOVERNOR

KEVIN M. BURKE  
SECRETARY

*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety*  
*Fire Safety Commission*

*Automatic Sprinkler Appeals Board*

*P.O. Box 1025 ~ State Road*

*Stow, Massachusetts 01775*

*(978) 567-3181 Fax: (978) 567-3121*

MAURICE M. PILETTE  
CHAIRMAN

PAUL DONGA  
VICE CHAIR

**Docket # 2006-191**  
**96 Freedom Street**  
**Hopedale, Massachusetts**

**AUTOMATIC SPRINKLER APPEALS BOARD**  
**DECISION AND ORDER**

**A) Statutory and Regulatory Framework**

This is an administrative appeal held in accordance with Massachusetts General Laws Chapter 30A; Chapter 148, section 26H; Chapter 6, section 201 and 530 CMR, relative to a decision of the Hopedale Fire Department, ordering the installation of automatic sprinklers in a building owned and operated by David Meade, (hereinafter referred to as the Appellant). The building, which is the subject of the order, is located at 96 Freedom Street, Hopedale, MA.

**B) Procedural History**

By a written Order of Notice, the Hopedale Fire Department ordered the Appellant to complete the installation of an automatic sprinkler system throughout a building located at 96 Freedom Street, Hopedale, MA in accordance with the sprinkler provisions of M.G.L. c.148, s.26H. On December 17, 2006, the Appellant filed an appeal of the Fire Department's order with this Board. The Board held a hearing on January 31, 2007 at the Department of Fire Services, Stow, Massachusetts.

David Meade, the owner of the property, and tenant Chad Smith appeared for the Appellant. Appearing at the hearing on behalf of the Hopedale Fire Department was Chief Scott D. Garland and Fire Inspector David J. McMorrow.

Present for the Board were: Maurice M. Pilette, Chairman, Paul Donga, Chief Thomas Coulombe, Alexander MacLeod, Peter Gibbons and George A. Duhamel. Peter A. Senopoulos, Esquire, was the Attorney for the Board.

**C) Issue(s) to be Decided**

Whether the Board should affirm, reverse or modify the Order of the Hopedale Fire Department to sprinkler the Appellant's building in accordance with the provisions of M.G.L. c.148, s. 26H?

**D) Evidence Received**

1. Application for Appeal
2. Letter and Documentation in Support of Appeal
  - a. Letters (with return receipt) to Tenants
  - b. Copy of M.G. L. c. 148 § 27H
  - c. Floor Plan of building.
3. Letter and Order of Notice from Hopedale Fire Department (10/24/2006)
4. Notice of hearing to Appellant
5. Notice of hearing to Hopedale Fire Department
6. Pictures from Hopedale Fire Department (A-G)
7. Hopedale Building Department letter (12/26/2006)
8. Letter from Board of Health to Fire Department (12/5/2006)
9. Board of Health Letter to Board of Selectmen (12/8/2006)
10. Pictures (A-C)

**E) Subsidiary Findings of Fact**

- 1) By written Order of Notice the Hopedale Fire Department ordered the Appellant to complete the installation of an automatic sprinkler system throughout the building located at 96 Freedom Street, Hopedale, MA. This Order was issued in accordance with the sprinkler provisions of M.G.L. c. 148, s. 26H. The Appellant filed an appeal of the Fire Department's order with this Board in accordance with said section 26H.
- 2) According to testimony, the Town of Hopedale adopted the provisions of M.G.L. c. 148, s. 26H on April 4, 1988. The Appellant does not challenge the legality of the Town's adoption of the law.
- 3) According to the testimony of the Appellant, the subject house at issue is ½ of a duplex house, which is owned by the Appellant. Said portion contains approximately 1,144 square feet. It features four bedrooms on the second floor, an unfinished and unheated attic, and an unfinished basement. The occupants share a kitchen, bathrooms and all common areas including areas of egress.
- 4) The Appellant, who has been the owner of the building for approximately 2½ years, stated that he was aware that 6 or more unrelated persons lived in the subject portion of the house between 5/05 and 12/06. He stated that one of the tenants, Chase Smith, acts as the manager and that the manager collects rent from all the other occupants. Said "manager" was present at the hearing and testified that he allowed persons to live at the home on a temporary basis for a rental fee. He indicated that most of these persons were homeless and had no other place to live. He stated that at one time, more tenants moved into the home without his consent but that some rent was being collected by the manager for the "unwanted" tenants. The Appellant-owner indicated that when he found out, he sent eviction letters to the unwanted tenants. He further stated that it has only been in the last 6 months that more than 5 tenants have been living in the home.

- 5) According to the testimony of the Appellant, each tenant has keys to the home and to their individual rooms, most of which have separate door locks.
- 6) The Hopedale Fire Department, Chief Scott D. Garland testified that the fire department was made aware of the dwelling following a 911 emergency call. When crews arrived on scene, they were unable to make entry to many of the rooms due to locked interior doors. Following the emergency call, in October, 2006, the fire department conducted an inspection of the building and determined that there appeared to be at least 7 separate living units on the first, second, and attic levels of the home. These units were separated by locked entrances. Chief Garland testified that persons appeared to be living in the living room, dining room and in the four bedrooms on the second floor. Additionally, they viewed a mattress in the basement area. Multiple photographs of the interior of this building were submitted that support the chief's statements. A current long term resident, Chad Smith, testified and confirmed the Chief's assertions about the number of occupants and separate living areas. He also indicated that he did not always have control over the occupant's of the building. Chief Garland further indicated that he understood that each of the tenants contributed a monthly rental fee. The appellant indicated that he collects approximately \$1,350.00 per month in rents from the individuals. This collection is usually conducted by Chad Smith. The Appellant conceded that he also has had difficulty in controlling the occupancy and activities within the house.
- 7) The Fire Chief stated that during one inspection it appeared that a bedroom for a family of three was set-up in the unheated mudroom/exit area located in the rear of the building. He was concerned about not only the blocked rear egress, but also the unhealthy conditions created by the use of several space heaters and the existence of many electrical extension cords throughout the house.
- 8) Chief Garland testified that the first inspection took place on Tuesday, August 1, 2006. The Order of Notice was issued on October 24, 2006. On December 5, 2006, the Board of Health, following an inspection, forwarded a letter to the Appellant indicating that the Appellant had five days to correct violations found in the home, including operating a rooming house without a permit. On December 26, 2006, after interviewing several tenants, the Building Commissioner/Zoning Enforcement Officer determined that the house was in violation of its intended occupancy and zoning laws. A letter was sent to the Appellant ordering him to "cease and desist all rooming and boarding house operations."
- 9) Following these correspondences, the Hopedale Fire Department made a follow up inspection at the property and determined that attic had been cleaned. The previously occupied mudroom had been vacated and that more smoke detectors had been installed.
- 10) The Appellant testified that the electric service in the house had been updated more than 2½ years ago. He also stated that he was also concerned by the use of space heaters and electrical extension cords.

F) **Ultimate Findings of Fact and Conclusions of Law**

- 1) The provisions of M.G.L. c. 26H provide for enhanced sprinkler requirements, on a local option

basis, for lodging or boarding houses. Section 26H states, in pertinent part: "For the purposes of this section "lodging house" or "boarding house" shall mean a house where lodgings are let to six or more persons not within the second degree of kindred to the person conducting it, but shall not include fraternity houses or dormitories, rest homes or group residences licensed or regulated by agencies of the commonwealth".

- 2) The Board finds that the Town of Hopedale adopted the provisions of M.G.L. c. 148, s. 26H on April 4, 1988. The Appellant does not challenge the legality of the Town's adoption of the said law.
- 3) The law requires that existing buildings subject to the law install the required systems "within five years after acceptance of this act by a city or town".
- 4) The evidence presented at the hearing clearly indicates that this building has, on a regular and routine basis, been used as "a house where lodgings are let to six or more persons who are not related to the person conducting it", within the intent and meaning of M.G.L. c. 148, § 26H.
- 5) There was no evidence presented that would indicate that said house comes within any of the enumerated exemptions specified by the statute.

**G) Decision and Order**

Upon a review of the evidence presented at the hearing, the board hereby unanimously determines, based upon the aforementioned reasons, that the subject building has been and is presently used and occupied as a lodging house within the meaning and intent of the sprinkler provisions of M.G.L. c. 148, s.26H. Accordingly, the Board affirms the decision of the Hopedale Fire Department to install a sprinkler system in accordance with said section.

Plans for sprinkler installation shall be filed within 60 days of the date of this decision or as otherwise extended by the Hopedale Fire Department. Installation of the sprinkler system shall be completed within 6 months of the date of this decision. The owner will be allowed the option to select and install a system in accordance with either NFPA (National Fire Prevention Association) standard 13, 13D, or 13R requirements.

**H) Vote of the Board**

Maurice Pilette, (Chair)	In Favor
Paul Donga	In Favor
Thomas Coulombe	In Favor
Alexander MacLeod	In Favor
Peter Gibbons	In Favor
George A. Duhamel	In Favor

I) Right of Appeal

You are hereby advised you have the right, pursuant to section 14 of chapter 30A of the General Laws, to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order.

SO ORDERED,



---

Maurice M. Pilette, P.E., Chairman

Dated: March 12, 2007

**A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY CERTIFIED MAIL,  
RETURN RECEIPT REQUESTED TO:**

David Meade  
34 Mowry Street  
Mendon, Massachusetts 01756

**1<sup>st</sup> Class Mail, Postage Pre-paid to:**

Chief Scott D. Garland  
Hopedale Fire Department  
40 Dutcher Street  
Hopedale, Massachusetts 01747