



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Fire Safety Commission

Automatic Sprinkler Appeals Board

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Docket # 2012-18
28 Harrison Street
Taunton, Massachusetts

AUTOMATIC SPRINKLER APPEALS BOARD DECISION

A) Statutory and Regulatory Framework

This is an administrative appeal held in accordance with Massachusetts General Laws Chapter 30A; Chapter 148, section 26H and Chapter 6, section 201, relative to a determination of the Taunton Fire Department, requiring the installation of an adequate system of automatic sprinklers in a building owned and/or operated by Kenneth Yelle and Gail Buie-Yelle (hereinafter referred to as the Appellants). The building, which is the subject of the order, is located at 28 Harrison Street, Taunton, Massachusetts.

B) Procedural History

By written notice dated November 8, 2012 and received by the Appellants on November 8, 2012, the City of Taunton Fire Department issued an Order of Notice about the provisions of M.G.L. c. 148, s. 26H, and the department's determination requiring the installation of automatic sprinklers in the Appellants' building located at 28 Harrison Street, Taunton, Massachusetts. The Appellants filed an appeal of said Order with this Board on December 12, 2012. The Board held a hearing on this matter on January 9, 2013, at the Department of Fire Services, Stow, Massachusetts.

Kenneth Yelle and Gail Buie-Yelle appeared on behalf of the Appellants. Appearing on behalf of the Taunton Fire Department was Captain Robert Bastis.

Present for the Board were: Maurice Pilette, Chairman; Thomas Coulombe; Anthony DiNatale; Alexander MacLeod; Aime DeNault; and George Duhamel. Peter A. Senopoulos, Esquire, was the Attorney for the Board.

C) Issue(s) to be Decided

Whether the building located at 28 Harrison Street, Taunton, Massachusetts, is subject to the automatic sprinkler requirements of M.G.L c.148, s. 26H?

D) Evidence Received

1. Application for Appeal filed by the Appellants
2. Order of Notice of the Taunton Fire Department
3. E-mail response to Appellants from Robert Pirozzi, Building Commissioner, Taunton
4. Property Listing from City of Taunton
5. Plot Plan of Land for Property
6. Existing Basement and 1st Floor Plans / New Renovations
7. Existing 2nd and 3rd Floor Plans / New Renovations
8. Notice of Hearing to Appellant
10. Notice of Hearing to Taunton Fire Department
- 11A. Letter from Appellant to Building Department (2 pages)
- 11B. Letter to Appellant from Building Department
- 11C. Letter from Appellant to Board of Health (in response) (5 pgs total)
12. Package from the Taunton Fire Department (items A-N)
 - A. Declaration of Authority
 - B. Order of Notice (11/19/12)
 - C. Confirmation of Adoption of 26H from Taunton City Clerk (1/8/2013)
 - D. E-mail from Cathal O'Brien to Captain Bastis (1/8/13)
 - E. Property Record Card from City of Taunton
 - F. Exterior Photograph of property
 - G. Exterior Photograph of property
 - H. Exterior Photograph of property
 - I. Interior Photograph of property (from doorway onto desk)
 - J. Interior Photograph of property (bedroom)
 - K. Interior Photograph of property (hallway)
 - L. Interior Photograph of property (bedroom with two beds)
 - M. Interior Photograph of property (sign in board)
 - N. Interior Photograph of property (sign in board)
13. Appellant Incident Report / Affidavit (dated January 8, 2013)

E) Subsidiary Findings of Fact

- 1) By written notice dated November 8, 2012, and received by the Appellant on said date, the City of Taunton Fire Department issued an Order of Notice to the Appellants informing them about the provisions of M.G.L. c. 148, s. 26H, and the department's determination requiring the installation of automatic sprinklers in the Appellants' building, located at 28 Harrison Street, Taunton, MA. An appeal of said Order was filed on December 12, 2012. The Board held a hearing on this matter on January 9, 2013, at the Department of Fire Services, Stow, Massachusetts.
- 2) On or about December 8, 1992, the City of Taunton adopted the provisions of M.G.L. c. 148, s. 26H, a local option law. This law requires the installation of a system of automatic sprinklers in certain lodging or boarding houses. Said section defines a lodging house or boarding house subject to said law, as a house "...where lodgings are let to six or more persons not within the second degree of kindred to the person conducting it . . ."

- 3) According to testimony, the City of Taunton also has a bylaw that prohibits not more than five unrelated individuals to live in any single-family home.
- 4) The Appellants testified that the property is a single-family home that they purchased in 2002. The property is a 3-floor, wooden structure built around 1880. According to City of Taunton records and testimony, the home features eight bedrooms and two bathrooms. In recent years, the Appellants have utilized the home as a “sober house” for persons recovering from substance abuse issues. The Appellants stated that all guests have to be cleared through the “House Manager” and receive a pass to visit and to live in the home. They must also enter into a written contract and agree to sober living, abstain from drugs and attend mandatory meetings and counseling. If the rules are not followed, clients are required to leave. Residents are referred to the home from various entities and/or hospitals. The residents pay approximately \$560 per person, per month, although the “House Manager” pays somewhat less.
- 5) The representative of the Taunton Fire Department, Captain Robert Bastis, testified that following a “medical” call to the property on September 5, 2012, he was called to the property and found that the house had no smoke detectors, a single carbon monoxide detector, and that the house showed signs of communal living arrangements. The communal living arrangements included: an office, two communal kitchens, bedrooms on the first and second floors that were individually padlocked, and a “sign-in” board that contained at least 7 names of “clients”.
- 6) A subsequent visit by Captain Bastis on January 8, 2013, indicated that there may be at least 6 people living in the home as indicated by the “sign-in” board and based upon statements of occupants. Accordingly, the Taunton Fire Department issued the Order to install sprinklers in accordance with the provisions of M.G.L. c. 148, s. 26H. Upon questioning, the Captain indicated that he did not personally see 6 or more persons in the home at one time.
- 7) The Appellants testified that there are currently only 5 residents living in the home. The Appellants testified that the 6th person that Chief Bastis referenced did at one time live in the home, but has subsequently moved back to her elderly mother’s home to provide care. They indicated that she does return frequently for “day meetings” and visiting and indicated that she does occasionally spend the night at the home as a temporary guest. They indicated that she sleeps on a couch when she stays over night and that the client does not keep belongings at the home, nor does she pay rent or receive any mail.

F) Ultimate Findings of Fact and Conclusions of Law

- 1) The Board finds that on or about December 8, 1992, the City of Taunton adopted the provisions of M.G.L. c. 148, s. 26H. Said law requires the installation of a system of automatic sprinklers in certain lodging or boarding houses. The statute defines a lodging house or boarding house as a house “. . . where lodgings are let to six or more persons not within the second degree of kindred to the person conducting it . . .”
- 2) The Board finds that this building would be subject to the enhanced sprinkler requirements of s. 26H, if it was let to six or more unrelated persons. The Appellants do not contest this finding.
- 3) Although there was conflicting testimony regarding the number of persons who currently or in the past rented rooms in this house, the Board, based upon a review of the evidence and the

nature and reliability of the testimony, finds that the subject property is currently occupied by not more than 5 persons for the purposes of MGL c. 148, s. 26H.

G) Decision and Order

Based upon the aforementioned findings and reasoning, the Board hereby **reverses** the Order of the Taunton Fire Department to require the installation of an adequate system sprinkler protection in the subject building in accordance with the provisions of M.G.L. Chapter 148, s. 26H. However, this determination is based upon the following conditions:

1. The Appellants shall limit and assure that at all times, the overnight occupancy of the home does not exceed 5 individuals;
2. The Appellants shall maintain tight control of the home and its overnight occupancy and shall continue to maintain the sign-in procedures relative to overnight occupants and guests; and
3. An on-site manager shall be present during overnight hours.

H) Vote of the Board

Maurice M. Pilette, Chairman	In Favor
Anthony DiNatale	In Favor
Alexander MacLeod	In Favor
Thomas Coulombe	In Favor
Aime DeNault	In Favor
George Duhamel	In Favor

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I) Right of Appeal

You are hereby advised that 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, Chairman

Dated: March 11, 2013

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

Kenneth Yelle and Gail Buie-Yelle
1821 South Street
Bridgewater, Massachusetts 02324

Captain Robert Bastis
Taunton Fire Department, Fire Prevention Bureau
2 Kilmer Avenue
Taunton, Massachusetts 02780