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Timothy P. Murray  
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Secretary

# The Commonwealth of Massachusetts

## Department of Public Safety

Board of Building Regulations and Standards

One Ashburton Place, Room 1301

Boston, Massachusetts 02108-1618

Phone (617) 727-7532 Fax (617) 227-1754

TTY (617) 727-0019

[www.mass.gov/dps](http://www.mass.gov/dps)

Thomas G. Gatzunis, P.E.  
Commissioner

Gary Moccia, P.E.  
Chairman

Alexander MacLeod, R.A.  
Vice Chairman

Robert Anderson  
Administrator

Date: June 30, 2008

Name of Appellant: Mr. Michael Farrah

Service Address: The Institute of Professional  
Practice  
360 Electric Avenue  
Fitchburg, MA 01420

In reference to: 189 Biscayne Street  
Leominster, MA 01453

Docket Number: 05-466

Property Address: 189 Biscayne Street  
Leominster, MA 01453

Date of Hearing: September 6, 2007

Enclosed please find a copy of the decision on the aforementioned matter.

Sincerely:

**BUILDING CODE APPEALS BOARD**

  
Patricia Barry, Clerk

cc: Building Code Appeals Board  
Building Official

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board  
Docket No. 05-466

_____	)
The Institute of Professional Practice,	)
Appellant	)
	)
v.	)
	)
City of Leominster,	)
Appellee	)
_____	)

**BOARD'S RULING ON APPEAL**

**Procedural History**

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to grant a variance from 780 CMR§ 1204.1 of the Massachusetts State Building Code ("Code") with respect to a room intended to be used as a bedroom in a building owned by the Institute of Professional Practice.

By letter dated July 23, 2007, William Charpentier, Building Inspector for the City of Leominster ("Appellee") denied the certificate of occupancy for a bedroom in the basement because the ceiling height did not meet the minimum requirements set forth in 780 CMR § 1204.1.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on Thursday, September 6, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Michael Farrah appeared on behalf of Appellant. William Charpentier appeared on behalf of Appellee.

**Reasons for Variance**

The issue is whether Appellant should be allowed a variance from the limitations set forth in 780 CMR § 1204.1. Mr. Farrah testified that the building is used as a residential group home partially funded by the Department of Mental Health and the Department of Mental Retardation. The building will house 4 residents and will include 2 staff members not living at the residence. The room intended to be used as a bedroom has a ceiling height of approximately 6' 11". The Board considered the evidence that the space in question was pre-existing, there was an emergency egress window at grade that meets 780 CMR § 1010.4, there are two means of egress from the

space in question, the building has interconnected smoke detectors, the building is staffed 24 hours a day, and routine fire drills are performed as part of the licensure from the Department of Mental Health.

The Appellee did not object to the variance request.

**Decision**

Board Member Brian Gale made a motion to grant a variance from 780 CMR§ 1204.1 based on the testimony that the ceiling height is 6' 11" which is an pre-existing condition ("Motion"). The Motion was seconded by Dana Haagensen. Following testimony, and based upon relevant information provided, Board members voted to approve the Motion as described on the record. The Board voted as indicated below.

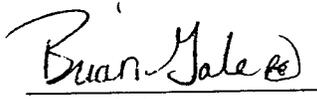
..... **Granted**                      ..... Denied                      ..... Rendered Interpretation

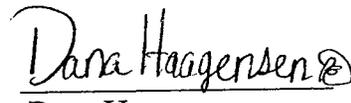
.....Granted with conditions                      ..... Dismissed

The vote was:

.....**Unanimous**                      ..... Majority

  
Robert Anderson - Chair

  
Brian Gale

  
Dana Haagensen

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: June 30, 2008

  
Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of \$5.00 per copy. Please make

requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator  
State Building Code Appeals Board  
BBRS/Department of Public Safety  
One Ashburton Place – Room 1301  
Boston, MA 02108