



# The Commonwealth of Massachusetts

## Department of Public Safety

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Commissioner

February 18, 2009

Mr. Donald F. Borenstein, Esq.  
Johnson & Borenstein, LLC  
12 Chestnut Street  
Andover, MA 01810

**RE: 83 Maple Avenue, Andover, MA**

Dear Attorney Borenstein,

The Building Code Appeals Board ("Board") is in receipt of the application for appeal you submitted on behalf of Steven Samler relative to the above referenced property. Unfortunately, the Board is without jurisdiction to adjudicate this matter and it is accordingly, **DISMISSED**.

This appeal pertains to a demolition order issued by a Town of Andover building inspector. Though 780 CMR 5121.2 has been cited in support of the inspector's order, the order was in actuality issued pursuant to G.L. c.143, §6. The State Building Code merely set forth G.L. c.143, §6-10 in its pages in the form of 780 CMR 5121.0 for ease of reference. As the code itself acknowledges though, the statutes remain the controlling authority. See 780 CMR 5121.6. The proper venue for appeal of a demolition order under this statutory scheme is to the superior court pursuant to G.L. c.143, §10 by way of G.L. c.139, §2.

Where the property owner has apparently not complied with the town's order, it would be up to the town to move forward pursuant to G.L. c. 143, §7 or 8, *et seq.* if it so chooses. Or, of course, the owner may work towards remedying the problems with the structure. If a demolition order is ultimately issued, the Board reiterates that pursuant to G.L. c.143, §10 and G.L. c.139, §2, a person aggrieved by such an order would appeal to the superior court, not this Board.

**SO ORDERED.**

**BUILDING CODE APPEALS BOARD,**

Sandy MacLeod

Brian Gale (Chairman)

William Middlemiss

cc: Christopher A. Clemente, local building inspector