

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board
Docket No. 05-493

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Hughes Associates, Inc.)
Appellant)
)
v.)
)
City of Boston,)
Appellee)
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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 §§ 403.2 and 906.2 of the Massachusetts State Building Code ("Code") to install electrical transformer equipment in a rated vault without sprinkler protection, as required by the owners of the equipment, with the vault located in the first two levels below grade of a new building known as Building F in the Fan Pier Development at 1 Marina Park Drive in Boston ("Project").

By letter dated October 5, 2007, Mr. Tom O'Donnell, Building Inspector for the City of Boston ("Appellee") denied the permit application for the construction of a new structure with 3 levels of below grade for parking and 18-story core/shell for future business/retail spaces as set forth in 780 CMR §§ 403.2 and 906.2 for a high-rise building.

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 Tuesday, November 20, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Eric Cote, Richard Noce, & Robert Lisauskas appeared on behalf of Appellant. Gary Moccia 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 §§ 403.2 and 906.2 for a proposed high-rise mixed-use group building where the electrical transformer vault (room) does not have fire sprinkler protection as required by the state building code. The appellants listed in their application a proposal to provide additional features in the vault similar to the construction of other vaults in the Commonwealth and approved by previous State Board of Appeals and it meets the exception listed in the proposed new State Building Code 7th edition. At the hearing, the Appellant further explained the additional safety features in the vault.

The Appellee did not object to the Project and the variance request.

Decision

A motion was made to grant the variance from 780 CMR §§ 403.2 and 906.2 based upon the testimony, the Appellee is in agreement, and this Project is like many other projects that the Board has granted the same variances to; however, this Project is under the 6th edition, and is granted with the same conditions as the other projects previously approved by the Board. The conditions are as follows: the cable within the vault is flame retardant and limited combustible, the dielectric fluid is limited combustible, the vault is enclosed in 3 hour fire resistant construction, the vault is a double height vault, one level below grade, protected with smoke protection connected to the building fire alarm, the room is used solely for transporter equipment, provided with spill containment, there is an emergency plan ongoing with fire department, and there is a continuous ventilation system which is dedicated to vault, and emergency power is provided for the ventilation equipment ("Motion"). The Motion was seconded. Following testimony, and based upon relevant information provided, Board members voted to allow 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



Keith Hoyle



Alexander MacLeod



Harry Smith -Chair

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: July 2, 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 \$10.00 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
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