

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

Building Code Appeals Board  
Docket No. 05-395

Joseph L. Martel,	)
Appellant	)
	)
v.	)
	)
City of Salem,	)
Appellee	)
	)

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on the 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 §103.1 of the Massachusetts State Building Code ("Code") to allow Appellant to render a fireplace inoperable but retain the visual appearance of the fireplace in his condominium unit.

By letters dated November 1, 2006 and March 2, 2007, Thomas St. Pierre, Building Commissioner for the City of Salem ("Appellee"), explained that, because the chimney systems for the Appellant's fireplace (and other fireplaces in the same condominium) need repairs and/or replacement to be safe, the Appellant (and other unit owners in the condominium) must do the following: eliminate the fireplace and sheetrock the opening; or replace the firebox and flue pipe; and repair the top collar and cap on the Lennox system. He would not allow the firebox to remain accessible because of public safety.

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 April 5, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Appellant was present at the hearing. Thomas St. Pierre was present on behalf of the City of Salem.



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

A true copy attest, dated: December 4, 2007

  
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:

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