

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss

State Building Code Appeals Board  
Docket No. 05-300

Patrick Kamins,	)
Appellant	)
	)
v.	)
	)
Town of Sunderland and Sharon	)
White,	)
Appellees	)
	)

**BOARD’S RULING ON APPEAL**

**Procedural History**

This matter comes before the State Building Code Appeals Board (“the Board”) on the Appellant’s motion filed pursuant to 780 CMR 122.1. In accordance with 780 CMR 122.3, Appellant asks the Board to grant a variance from 105 CMR 410.480(c)<sup>1</sup> of Chapter II of the State Sanitary Code. In accordance with MGL c. 30A, §§ 10 and 11; MGL c. 143, §100; 801 CMR 1.02 et. Seq.; and 780 CMR 122.3.4, the State Building Code Appeals Board convened a public hearing on September 19, 2006 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Present and representing the property owner, Lantern Court Trust, was Patrick Kamins of Kamins Real Estate (“Appellant”). There was no representative present from the Town of Sunderland Board of Health or the Franklin Regional Council of Governments. There was no representative present for the Town of Sunderland Fire Department.

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<sup>1</sup> 105 CMR 410 is not within 780 CMR but because said rules are pertinent to building construction and design or maintenance it is enforced by 780 CMR.

### Exhibit<sup>2</sup>

The following Exhibit was entered into evidence:

Exhibit 1: Five photographs of 253 Amherst Road, Sunderland, MA.

### Findings of fact

1. The subject property of this appeal is one apartment building, within an apartment building complex, located at 253 Amherst Road, Sunderland, MA.
2. The subject property is a two story building with four dwelling units, two units on each floor.
3. The subject property was inspected by the Franklin Regional Council of Governments. The inspection resulted in a written "Notice to Correct". The specific violation at issue is 105 CMR 410.480(c), "Main entry of three or more units had an automatic locking system with electronically operated mechanism and associated equipment".
4. The exterior front and rear doors of the subject property have a lock and are self closing. Each unit in the apartment building has a doorbell, door lock and a deadbolt lock.
5. An anti tampering device was added to the exterior doors to prohibit anyone from breaking the lock from the outside.
6. Each apartment has a window at the front entrance which allows the occupants to see who is seeking entry into the building.
7. Sunderland is a low crime area.

### Discussion

Mr. Hoyle withdrew himself from this matter due to his familiarity with the Appellant. A motion was made to grant the Appellant's request for a variance from 105 CMR 410.480(c) provided that the front and back doors have a closure that is securely closed and latched. Each apartment has window at the front of the building allowing the occupants to see who is at the front door.

The Appellant amended his appeal to include all existing buildings within the complex. The Board allowed the amendment. Motion carried 2-0.

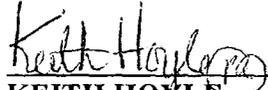
### Conclusion

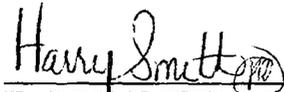
Based upon the foregoing the subject property may remain as is. The Appellant's request for variance from 780 CMR 410.480(c) has been **GRANTED**.

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<sup>2</sup> The Board takes administrative notice of its own records. 801 CMR 1.01(10)(h)(administrative notice); M.G.L. 30A, §11(5).

SO ORDERED.

  
\_\_\_\_\_  
KEITH HOYLE

  
\_\_\_\_\_  
HARRY SMITH

  
\_\_\_\_\_  
ALEXANDER MACLEOD

DATED: November 28, 2006

In accordance with MGL, Chapter 30A, Section 14, any person aggrieved by this decision may appeal the decision to a court of competent jurisdiction within 30 days.