



Deval L. Patrick
Governor

Timothy P. Murray
Lieutenant Governor

Kevin M. Burke
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

Thomas G. Gatzunis, P.E.
Commissioner

Alexander MacLeod, R.A.
Chairman

Gary Moccia, P.E.
Vice Chairman

Robert Anderson
Administrator

Date: June 16, 2009

Name of Appellant: Don Contois

Service Address: Sullivan Code Group
529 Main Street, Ste. 203
Charlestown, MA. 02129

In reference to: 303 Columbus Avenue
Boston, MA.

Docket Number: 09-733

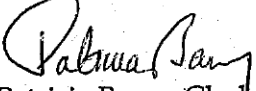
Property Address: 303 Columbus Avenue
Boston, MA,

Date of Hearing: 05-07-09

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

Sincerely:

BUILDING CODE APPEALS BOARD


Patricia Barry, Clerk

cc: Building Code Appeals Board
Building Official

COMMONWEALTH OF MASSACHUSETTS
State Building Code (780 CMR) Appeals Board
Board's Ruling on Appeal¹

Docket No. 09-733

Appellant(s): 303 Columbus Ave, LLC vz.
represented by Kevin Hastings

Appellee(s): City/Town of Boston
Thomas O'Donnell

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, the Appellant requested that the Board grant a variance from the 6th Edition of 780 CMR 403.8 and 921.7, for the property at 303 Columbus Ave, Boston, MA. In accordance with GL c. 30A, §§10 & 11; GL c. 143, §100; 801 CMR 1.02 *et. seq.*; and 780 CMR 122.3.4, the Board convened a public hearing on May 7, 2009 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

Kevin Hastings and Susan Wisler appeared and testified at the hearing.

Discussion

A motion was made to grant the Appellant's request for a variance from 6th Edition of 780 CMR 403.8 and 921.7, based on the testimony and as outlined in the Appeal Application Attachment dated March 24, 2009 and as tested and further described in the letter dated March 23, 2009 from Architectural Engineers Inc. The motion also recognized that there was no opposition to the granting of this variance from either the Boston Inspectional Services Department or the Boston Fire Department. There was a second on the motion and a board vote was taken, which was unanimous.

Conclusion

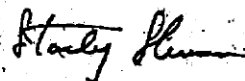
The Appellant's request for a variance from the 6th Edition of 780 CMR 403.8 and 921.7, as described in the Discussion is hereby granted and so ordered² on this date: May 7, 2009.



Douglas Semple



Timothee Rodrique



Stanley Shuman

¹ This is a concise version of the Board's decision. You may request a full written decision within 30 days of the date of this decision. Requests must be in writing and addressed to: Department of Public Safety, State Building Code Appeals Board, Program Coordinator, One Ashburton Place, Room 1301, Boston, MA 02108

² In accordance with M.G.L. c. 30A, §14, any person aggrieved by this decision may appeal to the Superior Court within 30 days after the date of this decision.



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Vice Chairman

Robert Anderson
Administrator

29-Apr-09

Mr./Mrs. Don Contois
529 Main Street, Suite 203
Charlestown, MA. 02129

Docket Number 09-733
Property Address 301-305 Columbus Avenue Boston, MA.
Hearing Location 1380 Bay Street Taunton, MA. 02780
Hearing Date and Time 05-07-09 10:00 a.m.

Dear Mr./Mrs. Contois

The appeal for the subject property has been scheduled to be heard on the hearing date and time and location indicated above. A map is enclosed for your convenience.

The State Building Code Appeals Board requires your presence or that of your representative at its hearing relative to the above case.

Please bring with you a copy of the record, including any plans, sketches, drawings, etc, that will help to give the Appeals Board grounds to adjudicate this appeal. The State Building Code Appeals Board hearings are held pursuant to 801 CMR 1.02 Informal Fair Hearing Rules.

NO POSTPONEMENTS OR REFUNDS WILL BE GRANTED. In order to reschedule an appeal case, you must first withdraw the original case and file a new application. A new application fee will be required.

Very truly yours,

THE STATE BUILDING CODE APPEALS BOARD


Patricia A. Barry
Coordinator



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The Commonwealth of Massachusetts

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Chairman

Gary Moccla, P.E.
Vice Chairman

Robert Anderson
Administrator

29-Apr-09

Mr./Mrs. O'Donnell
Building Commissioner
ISD, 1010 Massachusetts Avenue
Boston, MA. 02118

Docket Number 09-733
Property Address 301-305 Columbus Avenue Boston, MA.
Hearing Location 1380 Bay Street Taunton, MA. 02780
Hearing Date and Time 05-07-09 10:00 a.m.

Dear Mr./Mrs. O'Donnell

The appeal for the subject property has been scheduled to be heard on the hearing date and time and location indicated above. A map is enclosed for your convenience.

The State Building Code Appeals Board requires your presence or that of your representative at its hearing relative to the above case.

Please bring with you a copy of the record, including any plans, sketches, drawings, etc, that will help to give the Appeals Board grounds to adjudicate this appeal. The State Building Code Appeals Board hearings are held pursuant to 801 CMR 1.02 Informal Fair Hearing Rules.

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Very truly yours,

THE STATE BUILDING CODE APPEALS BOARD

Patricia A. Barry
Coordinator



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The Commonwealth of Massachusetts

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Chairman

Gary Moccia, P.E.
Vice Chairman

Robert Anderson
Administrator

29-Apr-09

Fire Marshal Peter Laizza
1010 Massachusetts Avenue
Boston, MA 02118

Docket Number 09-733
Property Address 301-305 Columbus Avenue Boston, MA.
Hearing Location 1380 Bay Street Taunton, MA. 02780
Hearing Date and Time 05-07-09 10:00 a.m.

Dear Fire Marshal Peter Laizza

The appeal for the subject property has been scheduled to be heard on the hearing date and time and location indicated above. A map is enclosed for your convenience.

This notice is forwarded to you by the State Building Code Appeals Board as a courtesy. You are not compelled to attend but are encouraged to do so if you have a particular interest in the case.

If you have any questions relative to the above referenced appeal, please contact your BUILDING OFFICIAL.

Very truly yours,

THE STATE BUILDING CODE APPEALS BOARD

Patricia A. Barry
Coordinator

State Building Code Appeals Board

Summary to be filled out by Appeals Board Clerk

Pursuant to Docket no. (insert Docket no.) 09-133

Based on the following findings of fact/testimony:

1. _____
2. _____
3. _____
4. _____

A motion was made by (insert Board member name) Doug

A second was made by (insert Board member name) Stan

The motion is:

Motion made by Doug to grant the variances of 3603.3.2 + 5302.2 based on the fact Engineered Documentation they have + in some cases they meet + also due to the fact that there is no opposition from either the Fire Dept or Building Dept-

With the following conditions:

1. _____
2. _____
3. _____

The Board voted (to (check one) grant ☒ or deny ☐ the variance

from 780 CMR Sections (cite all sections that apply) 780 CMR Section 403.8 + 921.7

Members voting for the motion: Unanimous

Members voting against the motion: _____

STATE BUILDING CODE APPEALS BOARD

OPENING STATEMENT:

Mr. Chairman:

The date is: May 6, 2009 the docket # is 09-733

The appellant is: Don Contois, Sullivan Code Group

529 Main Street, Suite 203, Charlestown, MA. 02129

The property involved is:

303
301-305 Columbus Avenue, Boston, MA.

The appeal is based on the provisions of the 6th Edition of the State Building Code relative to: (Section/Table)

Relief desired:

780 CMR Section 403.8 & 921.7

DECISION: (Please complete this section at the hearing).

The Building Official supported/opposed the appeal filing:

Board members voted to:

Grant Appeal

Deny Appeal

Reason for approval/denial: _____

The decision was _____ unanimous/ _____ objected to by: _____

Reason for objection: _____

Provisos (if any): _____

BOARD: _____

STATE BUILDING CODE APPEALS BOARD

DOCKET NUMBER: 09-733

PROPERTY ADDRESS: 301-305 Columbus Avenue, Boston, MA. 02129

APPELLANT: Don Contois

BUILDING OFFICIAL: Thomas O'Donnell

(check one)

Item #	Item	Document Dated	Date Received	Appellant	Building Official
1.	Exhibit #1 - Application			✓	
2.	Exhibit #2 - E-mail from Tom O'Donnell - no opposition	5-5-09	5-7-09	✓	
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

From: O'Donnell, Tom [mailto:Tom.O'Donnell.isd@ci.boston.ma.us]
Sent: Tuesday, May 05, 2009 12:43 PM
To: Jay A. Ierardi
Cc: Moccia, Gary
Subject: columbus ave BOA hearing

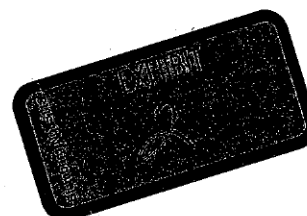
Dear Jay,

The City of Boston has issued a temp c/o for the building at 303 Columbus. We are expecting that the system which blends the vestibule and pressure to perform as outlined by the engineering team in the testing reports provided by the building owners construction team. Acceptance testing was completed based on those parameters and the temp c/o issued. We are not opposed to a varaince from specific prescriptive requirments based on the criteria, and construction documents submitted to the City and the Board of Appeal. This should provide a clear record for any future renovations or alterations of that may effect this system

Tom O'Donnell

The substance of this message, including any attachments, may be confidential, legally privileged and/or exempt from disclosure pursuant to Massachusetts law. It is intended solely for the addressee. If you received this in error, please contact the sender and delete the material from any computer.

Help make the earth a greener place. If at all possible resist printing this email and join us in saving paper.





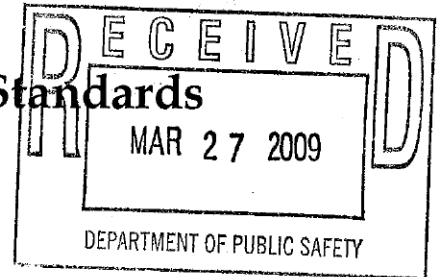
The Commonwealth of Massachusetts

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



STATE BUILDING CODE APPEALS BOARD APPEAL APPLICATION FORM

DOCKET NUMBER (State Use Only)	09.133	DATE	March 24, 2009
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The undersigned hereby appeals to the State Board of Building Regulations and Standards from the decision of the following person. (Please fill-in the name of the appropriate municipal or state building inspector or other authority. Also, Also indicate if this is a request for a *hearing de novo* (new hearing) relative to a decision of a municipal appeals board.)

Building Official from the City/Town of:	Boston Thomas O'Donnell
Board of Appeals from the City/Town of: (Request for <i>hearing de novo</i>)	
State Building Official:	
Other:	

Please mark the appropriate box indicating the requested action to be considered by Appeals Board members.

Variance	X	Order		Direction	
Interpretation		Failure to Act		Other	

STATE USE ONLY	
Fee Received	150.00
Check Number	2134
Received By	P. Barry

(This section must be completed or the application will be returned.)

Has the building or structure been the subject of an appeal by this or any other appeals board previous to this filing?

No ☒ Yes ☐ If, yes, please indicate the date of the previous appeal, whether the matter was heard before a local or state appeals board, the code section that was at issue, and the specifics of the decision (i.e. a variance was granted/not granted).

Please take care to submit all written supporting documentation with this application to allow time for review. However, Board members reserve the right to continue proceedings if such material warrant extensive review.

Please provide a brief description of the desired relief below. Additional information may be attached if space is not sufficient. All appropriate code sections that are subject to appeal must be identified in the description.

Variances requested from 780 CMR Section 403.8 and 921.7 regarding elevator lobbies and shaft pressurization.

See attached for additional information.

Please complete the following section completely and accurately.

Name of Appellant:	Don E. Contois, P.E.	Representing:	R. W. Sullivan, Engineering
Address For Service	529 Main Street		
	Suite 203		
	Charlestown, MA 02129		
Telephone Number:	617-523-8227	Fax Number:	617-523-8016
Address of Subject Property (if different from service address):	301-305 Columbus Ave.		
	Boston, MA		
What is appellant's connection to subject property?		Consultant	



Signature of Appellant and/or Representative

Don E. Contois

Please Print Name Legibly

Please return applications to:
Program Manager, Board of Appeals
Board of Building Regulations and Standards - One Ashburton Place, Room 1301
Boston, MA 02108-1618

DESCRIPTION OF BUILDING OR STRUCTURE RELATIVE TO THE MASSACHUSETTS STATE BUILDING CODE (7th EDITION): (Check as appropriate)

Do not complete the entire table below for a One- or Two-Family Dwelling; complete only section entitled "Description of the Proposed Work".

DESCRIPTION OF PROPOSED WORK (check all applicable)

New Construction <input checked="" type="checkbox"/>	Existing Building <input type="checkbox"/>	Repair(s) <input type="checkbox"/>	Alteration(s) <input type="checkbox"/>	Addition <input type="checkbox"/>
Accessory Bldg. <input type="checkbox"/>	Demolition <input type="checkbox"/>	Other <input type="checkbox"/> Specify: _____		

Brief Description of Proposed Work:

Construction of a new high rise residential building with below grade parking and commercial space on the 1st Floor.

USE GROUP AND CONSTRUCTION TYPE

USE GROUP (Circle appropriate Use Group)				CONSTRUCTION TYPE	
A Assembly	A-1	A-2	A-3	1A	
	A-4	A-5		1B	
B Business				2A	X
E Educational				2B	
F Factory	F-1	F-2		2C	
H High Hazard				3A	
I Institutional	I-1	I-2	I-3	3B	
M Mercantile				4	
R Residential	R-1	R-2	R-3	5A	
S Storage	S-1	S-2		5B	
U Utility	Specify: _____				
M Mixed Use	Specify: _____				
S Special Use	Specify: _____				

COMPLETE THIS SECTION IF EXISTING BUILDING UNDERGOING RENOVATIONS, ADDITIONS AND/OR CHANGE IN USE

Existing Use Group: _____

Proposed Use Group: _____

Existing Hazard Index (780 CMR 34): _____

Proposed Hazard Index (780 CMR 34): _____

BUILDING HEIGHT AND AREA

BUILDING AREA	Existing (if applicable)	Proposed
Number of Floors or stories include basement levels		13
Floor Area per Floor (sf)		15,150
Total Area (sf)		~195,000
Total Height (ft)		108

Are there unresolved issues with local zoning ordinances? Yes ☐ or No ☒

If yes, please explain briefly why this zoning issue is not a factor in the appeal:

STATE BUILDING CODE APPEALS BOARD**Service Notice**


I, Don E. Contois, P.E., as Representative for the

Appellant/Petitioner Neshamkin French Architects, Inc. an appeal filed with the State

Building Code Appeals Board on March 24, 20 09

HEREBY SWEAR UNDER THE PAINS AND PENALTIES OF PERJURY THAT IN ACCORDANCE WITH THE PROCEDURES ADOPTED BY THE STATE BOARD OF BUILDING REGULATIONS AND STANDARDS AND SECTION 122.3.1 OF THE STATE BUILDING CODE, I SERVED OR CAUSED TO BE SERVED, A COPY OF THIS APPEAL APPLICATION ON THE FOLLOWING PERSON(S) IN THE FOLLOWING MANNER:

	NAME AND ADDRESS OF PERSON OR AGENCY SERVED	METHOD OF SERVICE	DATE OF SERVICE
1	Thomas O'Donnell Boston Inspectional Services Department 1010 Massachusetts Avenue, 5th Floor Boston, MA 02118	Certified Mail w/ return receipt	March 24, 2009
2	Paul Donga Boston Fire Department - Fire Prevention 1010 Massachusetts Avenue, 3rd Floor Boston, MA 02118	Certified Mail w/ return receipt	March 24, 2009
3			


Signature: Appellant or Petitioner

On the 24th Day of March 20 09 PERSONALLY APPEARED

BEFORE ME THE ABOVE NAMED Don E. Contois, P.E.
(Type or Print the Name of the Appellant)

AND ACKNOWLEDGED AND SWORE THE ABOVE STATEMENTS TO BE TRUE.


NOTARY PUBLIC

10-24-2014
MY COMMISSION EXPIRES



BOSTON INSPECTIONAL SERVICES DEPARTMENT

THOMAS M. MENINO

Mayor

March 23, 2009

301 Columbus Ave. LLC
301 Columbus Ave.
Boston, MA 02116

Re: Application No. 04-1860
Date Filed: November 14, 2003
Location: 301-305 Columbus Avenue
Ward: 04
Purpose: Allow for modification to Massachusetts State Building Code (Sixth Edition). Erect 50 residential units w/parking

Your application is hereby refused, as same would be in violation of Chapter 802, Acts of 1972, as amended, to wit:

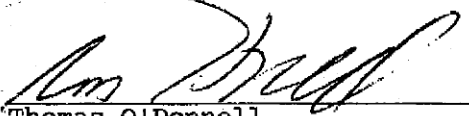
403.8 Elevators: Elevator operation and installation shall be in accordance with 524 CMR. Elevator service shall be provided for fire department emergency access to all floors. Elevator cab dimensions shall conform to the applicable requirements of 524 CMR. Except for the main entrance level, all elevators shall open into a lobby separated from the remainder of the building by one hour fire resistance rated construction. Exit stairways, chutes, janitor closets, tenant spaces in Use Group R and service rooms shall not open into the elevator lobby. In Use Groups other than R, tenant spaces opening into the elevator lobby shall be provided with other means of exit access that do not require passage through the elevator lobby.

Exception: elevator lobbies are not required when a smoke control system is installed in accordance with 780 CMR 921.7.

921.7 Elevators: Except when otherwise required by 524 CMR, where buildings are equipped with a mechanical smoke control system that will restrict smoke and hot gases from entering the elevator shaft in the fire floor, hoistway venting is not required. In high-rise buildings equipped with this system and equipped throughout with an automatic fire suppression system, the one-hour fireresistance rated elevator lobby as specified in 780 CMR 403.8 is not required.

101.6 Referenced standards: The standards referenced in 780 CMR and listed in Appendix A shall be considered part of the requirements of 780 CMR to the prescribed extent of each such reference. NFPA 92A

Very truly yours,


Thomas O'Donnell
for the Commissioner
(617) 961-3462

Refusal of a permit may be appealed to the Board of Appeal within 45 days. Chapter 802, Acts of 1972, and Chapter 656, Acts of 1956, Section 19.

**STATE BUILDING CODE APPEALS BOARD
APPEAL APPLICATION ATTACHMENT**

**301-305 Columbus Ave.
Boston, MA**

March 24, 2009

The project involves the construction of a high rise structure for residential, mercantile, business and parking use based on the requirements of the 6th Edition of 780 CMR.

VARIANCE REQUEST

Since the building is classified as a high rise building, all elevators must be provided with elevator lobbies and / or a smoke control system that will prevent the smoke and hot gases from entering the elevator shaft (780 CMR 403.8 & 921.7). The elevators are protected with a smoke control system that generally provides an acceptable pressure difference on the upper floors of the building while the lower parking levels are provided with 1 hour fire resistance rated lobbies with a smaller pressure difference between the elevator lobby and the remainder of the floor (see attached letter from the engineer of record for pressure differences). A variance is requested to allow this configuration, which in our opinion meets the intent of the code by preventing the spread of smoke and hot gases within the elevator shaft. The levels that are not provided with the elevator lobbies comply with the exception to 780 CMR 403.8 due to the presence of the shaft pressurization smoke control system. The lower levels are provided with a higher level of protection, in our opinion than is required by 780 CMR 403.8 since the elevator lobby will also be pressurized by the smoke control system. Since these floors are provided with elevator lobbies and do not need to meet the exception, they are not required to be provided with a smoke control system that meets the pressure differential specified in NFPA 92A.

ARCHITECTURAL
ENGINEERS

March 23, 2009

Re: The Bryant, 303 Columbus Avenue, Boston, MA
Elevator Shaft Protection – Testing Criteria

Architectural Engineers Inc.

The purpose of this document is to address the testing criteria for the systems designed to prevent smoke and hot gas from entering the elevator shafts at The Bryant-303 Columbus Avenue, Boston MA.

The building has been designed with a smoke control system that provides a minimum of .05"wc pressure differential between the elevator shaft and the upper residential floors (floors 3 through 10).

Floor 2 Elevator #1 is provided with an elevator lobby. The elevator #1 shaft positive pressure zone extends through the lobby to the common corridor. A positive pressure of 0.02"wc shall be maintained at the door between the elevator lobby and the common corridor. This pressure differential combined with the installation of the 1-hour rated elevator lobby will provide the required protection of the elevator shaft at this location.

Floor 2 Elevator #3 is provided with an elevator lobby that opens into a smoke vestibule. This condition provides the required protection of the elevator shaft at this location.

77 Summer Street

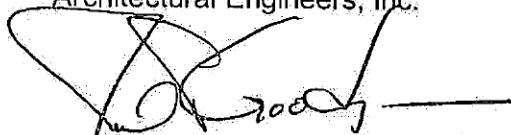
Garage Level Floors P-1, P-2, and P-3; Elevators #1, #2, and #3 have all been provided with elevator lobbies. The shaft positive pressure zone extends through the elevator lobbies to the garage. A positive pressure of 0.02"wc shall be maintained at the door between the elevator lobbies and the garage. This pressure differential combined with the installation of 1-hour rated elevator lobbies will provide the required protection of the elevator shaft at these locations.

Boston, MA 02110

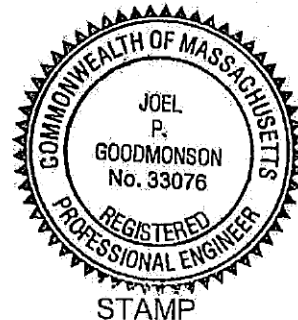
The elevator shafts have been tested to the criteria listed above and witnessed by the undersigned. All shafts have met the positive pressure requirements noted with one exception; the pressure differential in Unit 303 is maintained at 0.042"wc. It is our professional opinion that this installation meets the requirements of the Massachusetts State Building Code and is ready for occupancy.

617 542-0810

Sincerely,
Architectural Engineers, Inc.



Joel P. Goodmonson, PE, LEED AP
Principal



F o x 5 4 2 - 8 4 5 1