

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LT. GOVERNOR

MARY ELIZABETH HEFFERNAN  
SECRETARY

*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*  
*Fire Safety Commission*

*Automatic Sprinkler Appeals Board*

*P.O. Box 1025 ~ State Road*

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MAURICE M. PILETTE  
CHAIRMAN

RODERICK J. FRASER, JR.  
VICE CHAIRMAN

**Docket # 2011-04**  
**38 Reservation Road**  
**Mattapoisett, Massachusetts**

**AUTOMATIC SPRINKLER APPEALS BOARD DECISION**

**A) Statutory and Regulatory Framework**

This is an administrative appeal hearing held in accordance with Massachusetts General Laws, Chapter 30A; Chapter 148, section 26G and Chapter 6, section 201, to determine whether to affirm an Order of the Mattapoisett Fire Department requiring YMCA Southcoast, Inc., (hereinafter referred to as the "Appellant") to install automatic sprinklers in a building owned by it located at 38 Reservation Road, Mattapoisett, MA

**B) Procedural History**

By written notice received by the Appellant on May 13, 2011, the Mattapoisett Fire Department issued an Order of Notice to the Appellant informing it of the provisions of M.G.L. c. 148, s. 26G, and the department's determination to require the installation of automatic sprinklers in the Appellant's building, located at 38 Reservation Road, Mattapoisett, MA. The Appellant filed an appeal of said Order with this Board on June 17, 2011. The Board held a hearing on this matter on August 10, 2011, at the Department of Fire Services, Stow, Massachusetts.

Appearing on behalf of the Appellant was Robert Trahan, Chief Financial Officer of YMCA Southcoast, Inc. Appearing on behalf of the Mattapoisett Fire Department was Chief Andrew Murray.

Present for the Board were: Maurice M. Pilette, Chairman; Thomas Coulombe; Bartholomew Shea, Designee, Boston Fire Commissioner; Aime DeNault; and George Duhamel. Peter A. Senopoulos, Esquire, was the Attorney for the Board.

**C) Issue(s) to be Decided**

Whether the Board should affirm, reverse or modify the determination of the Mattapoisett Fire

Department requiring sprinklers throughout the Appellant's building, in accordance with the provisions of M.G.L. c.148 § 26G?

**D) Evidence Received**

1. Application for Appeal filed by Appellant
2. Statement in Support of Appeal
3. Order of Notice of the Mattapoisett Fire Department
4. Scheme 1 – Porch expansion plan for Camp Massasoit – YMCA Southcoast, Inc.
5. A) Photograph of porch and B) photograph of underneath the porch
6. Notice of Hearing to the Appellant
7. Notice of Hearing to Mattapoisett Fire Department
8. Copies of two Memoranda that accompany Hearing Notices
9. Appellant's additional plans on facility (items 9A-D)
10. Appellant's sprinkler quotes (items 10A-B)

**E) Subsidiary Findings of Fact**

- 1) By written notice received by the Appellant on May 13, 2011, the Mattapoisett Fire Department issued an Order of Notice to the Appellant informing it of the provisions of M.G.L. c. 148, s. 26G, and the department's determination to require the installation of automatic sprinklers in the Appellant's building, located at 38 Reservation Road, Mattapoisett, MA. The Appellant filed an appeal of said Order with this Board on June 17, 2011. The Board held a hearing on this matter on August 10, 2011, at the Department of Fire Services, Stow, Massachusetts.
- 2) The representative for the Appellant testified that the building at issue is a three story wood frame structure currently occupied by the Appellant (YMCA Southcoast, Inc.) as "Camp Massasoit". The building has been owned by the Appellant since the 1960's and consists of approximately 7,713 sq. ft of floor area on three floors (finished and unfinished). The existing building is currently sprinklered throughout. A recent addition of a covered deck consisting of approximately 4,454 sq. ft. triggered the fire department's enforcement action pursuant to M.G.L. c. 148, s. 26G.
- 3) The representative of the Appellant indicated that the original appeal application only questioned that portion of the Order of the Mattapoisett Fire Department to install sprinklers in a crawl space area located underneath the covered deck area. The under-deck area is approximately 5,905 sq. ft. However, during the hearing, the Appellant made a motion to broaden the scope of the appeal to include the requirement to sprinkler the entire deck area. Appellant's motion was not opposed by the fire department and the Board, by a unanimous vote, allowed said motion.
- 4) The representative for the Appellant testified that the installation of automatic sprinklers on the underside of the deck would be very costly and provide very little additional protection to occupants. The representative indicated that Standard 8.15.6 of the (National Fire Protection Association) NFPA – 13, 2007 Edition, which is referenced in 780 CMR, The State Building

Code, 8<sup>th</sup> Edition appears to exempt sprinklers in such inaccessible areas if certain conditions exist. Such conditions include: the subject space is not accessible for storage purposes, can be protected against wind borne debris, contains no equipment (including conveyors and fuel-fired heating units), no combustible/flammable liquids or materials or the storage of same above the space, that floor construction over the space be “reasonably tight”, and that smoking areas be located at least 75 feet away from the space. The Appellant indicated that most of these conditions exist. He indicated that the Appellant would install additional fencing around the underside of the deck to protect against debris accumulation.

- 5) The Appellant’s representative testified that he had received two cost estimates for the installation of sprinklers both above and below the covered deck. He indicated that the installation, according to one estimate, would cost \$42,300.00. Of this amount, approximately \$15, 800.00 was for the under deck area. Another estimate indicated that the installation would cost \$89,900.00. The Appellant’s representative provided financial records through June 2011, indicating that the Appellant was running a deficit of \$61,873.00. He indicated that the cost of the project would create a significant financial burden and would require the YMCA Southcoast, Inc. to solicit additional donations.
- 6) In support of the position of the Mattapoisett Fire Department, Chief Murray testified that he issued his Order of Notice based upon the addition of the outdoor deck and the presence of high combustibles throughout the facility. He indicated that he was not made aware of this project until it was completed; therefore, he never had an opportunity to review the building plans. He indicated that the facility has a temporary Certificate of Occupancy and that fire personnel are present for events at the facility pending a final determination of the sprinkler issue. The representative of the fire department indicated that he would support an exemption of sprinklers underneath the deck if he was satisfied that the conditions in s. 8.15.6 as referenced by the Appellant are met.

**F) Ultimate Findings of Fact and Conclusions of Law**

- 1) The relevant provisions of M.G.L. c. 148, s. 26G, state, (in pertinent part): “Every building or structure, including any additions or major alterations thereto, which totals, in the aggregate, more than 7,500 gross square feet in floor area shall be protected throughout with an adequate system of automatic sprinklers in accordance with the provisions of the state building code.” This law reflects amendments to the statute enacted by Chapter 508 of the Acts and Resolves of 2008. The provisions apply to “the construction of buildings, structures or *additions* (emphasis added) or major modifications thereto, which total, in the aggregate, more than 7,500 gross square feet *permitted after January 1, 2010*”. (Sec. 6, Chapter 508 of the Acts of 2008).
- 2) The Appellant does not contest a finding that the building, including the new addition consisting of a covered deck, is subject to the law.
- 3) Although the Appellant seeks to challenge the need to install sprinklers throughout the covered deck area, the representative for the Appellant failed to present any legal or technical basis to not require the installation in said location.

- 4) With respect to the Appellant's position that sprinklers should not be required in the area located underneath the covered deck, the board acknowledges that Standard 8.15.6 of the (National Fire Protection Association) NFPA – 13, 2007 Edition, may eliminate the need to install sprinklers in this particular area if certain conditions exist which reduce the chances of the ignition of fire or the spread of fire in the subject area. The Board also notes that M.G.L. c. 148, s. 26G requires the installation of an "adequate" system of automatic sprinklers. The Legislature's use of the word "adequate" is interpreted by this Board to require a reasonable level of sprinkler protection with regard to life safety.

**G) Decision of the Automatic Sprinkler Appeals Board**

Based upon the evidence and testimony presented at the hearing, the Board hereby **upholds** the determination of the Mattapoisett Fire Department to install sprinklers both above and below the subject-covered deck in accordance with the requirements of M.G.L. c. 148, § 26G. Sprinklers shall be installed throughout the outside deck area in accordance with NFPA 13.

However, sprinkler protection may not be required in the spaces beneath said deck area on the condition that the Appellant can confirm, to the reasonable satisfaction of the Head of the Mattapoisett Fire Department, that the conditions described in NFPA 13, 8.15.6, as referenced herein exist to warrant an exemption.

Plans for the required installation shall be submitted to the Mattapoisett Fire Department within 90 days of the hearing date (November 8, 2011) and sprinklers must be installed within 6 months thereof (February 10, 2012).

**H) Vote of the Board**

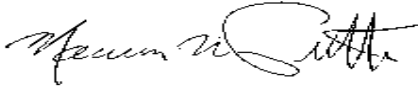
|                              |          |
|------------------------------|----------|
| Maurice M. Pilette, Chairman | In Favor |
| Thomas Coulombe              | In Favor |
| Bartholomew Shea, Designee,  | In Favor |
| Aime DeNault                 | In Favor |
| George Duhamel               | In Favor |

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**I) Right of Appeal**

You are hereby advised you have the right to appeal this decision, in whole or in part, within thirty (30) days from the date of receipt of this order, pursuant to section 14 of chapter 30A of the General Laws.

SO ORDERED,



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Maurice Pilette, PE, Chairman

Dated: September 29, 2011

**A COPY OF THIS DECISION AND ORDER WAS FORWARDED BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED TO:**

Robert A. Trahan, Vice President & CFO  
YMCA Southcoast, Inc.  
18 South Water Street  
New Bedford, Massachusetts 02740

Chief Andrew Murray  
Mattapoisett Fire Department  
26 County Road, P.O. Box 362  
Mattapoisett, Massachusetts 02739