



DEVAL L. PATRICK  
GOVERNOR

ANDREA J. CABRAL  
SECRETARY

*The Commonwealth of Massachusetts*  
*Executive Office of Public Safety and Security*  
*Fire Prevention Regulations Appeals Board*

*P.O. Box 1025 ~ State Road*

*Stow, Massachusetts 01775*

*(978) 567-3181 Fax: (978) 567-3121*

JON C. JONES  
CHAIRMAN

**Docket # 2013-01**  
**723 Rear Main Street**  
**Melrose, Massachusetts**

**FIRE PREVENTION REGULATIONS APPEALS BOARD**

**A) Statutory and Regulatory Framework**

This is an administrative appeal held in accordance with Massachusetts General Laws Chapter 30A and Chapter 22D, section 5, relative to an Order of the Melrose Fire Department requiring corrections of certain conditions in a building located at 723 Rear Main Street, Melrose, Massachusetts. The building is owned by Theodore Lantzakis, (hereinafter referred to as the Appellant), trustee of the 461-469 Main Street Realty Trust.

**B) Procedural History**

By an Order of Notice dated July 9, 2013 and received by the Appellant on the same date, Captain White of the Melrose Fire Department issued an Order requiring the Appellant to correct certain conditions within the subject building. One of the conditions relates to a sprinkler/standpipe system that had allegedly been disabled and partially removed. On July 16, 2013, the Appellant filed an appeal of the department's determination with the Fire Prevention Regulations Appeals Board. The Appeal was limited solely to the issue involving the sprinkler system. The Board held a hearing on August 29, 2013, at the Department of Fire Services, Stow, Massachusetts.

Appearing on behalf of the Appellant was Theodore Lantzakis (current building owner) and Joe Cunningham (previous building owner). Appearing on behalf of the Melrose Fire Department was Captain John White.

Present for the Board were: Anthony P. Caputo, Presiding Panel Member, Jeff Cox and Chief Eric H. Madison. Peter A. Senopoulos, Esq., was the Attorney for the Board.

As a preliminary matter, as indicated in the Notice of Hearing to the parties, the Appeals Board panel conducted a hearing to determine whether the Board had jurisdiction to render a decision regarding the matter before it.

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

1. Whether the Appeals Board has jurisdiction to hear this appeal; and
2. If the Board does have jurisdiction to hear this appeal, should the Board affirm, reverse or modify the Order of the Melrose Fire Department to restore the sprinkler/standpipe system in the Appellant's building.

**D) Evidence Received**

1. Application for Appeal filed by Appellant
2. Letter/Statement in Support of Appeal
3. Order of Notice of the Melrose Fire Department
4. Massachusetts Quitclaim Deed
5. Correspondence from the Board to the Appellant returning the Application Fee
6. Notice of Hearing to Appellant
7. Notice of Hearing to Melrose Fire Department
8. Copy of Guidance Document that accompanies Hearing Notices

**E) Subsidiary Findings of Fact**

- 1) By an Order of Notice dated July 9, 2013 and received by the Appellant on the same date, Captain White of the Melrose Fire Department issued an order requiring the Appellant to correct certain conditions within a building located at 723 Rear Main Street, Melrose, Massachusetts. One of the conditions related to a sprinkler/standpipe system that allegedly had been disabled and partially removed. On July 16, 2013, the Appellant filed an appeal of the department's determination with the Fire Prevention Regulations Appeals Board. The Board held a hearing on August 29, 2013, at the Department of Fire Services, Stow, Massachusetts.
- 2) According to the appeal application and the Appellant's testimony at the hearing, the sole matter before the Board was limited to the issue involving the alleged removal/disabling of the sprinkler system and the restoration of same. As a preliminary matter, the Appeals Board panel heard arguments from the parties to determine whether the Board had jurisdiction to render a decision relative to the department's Order to restore the sprinkler system.
- 3) As indicated in the Order and according to the testimony of the representative of the fire department, the Order was based upon the provisions of M.G.L. c. 148, s. 27A and the State Fire Code, 527 CMR 1.06 (2) which, among other things, requires ongoing maintenance of fire protection systems and references the provisions of s. 27A. The Appellant and the previous owner testified that there has not been an active sprinkler system in the building in over 30 years, well before either individual had owned the building.
- 4) The representative of the Melrose Fire Department indicated that the department would like the Board to retain jurisdiction because they do not seek to criminally prosecute the Appellant. They also indicated that the department has no records of the installation or

disconnection of a sprinkler system and that the fire department seeks guidance from the Board on this issue.

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

- 1) The July 9, 2013 Order of the Melrose Fire Department was an enforcement action taken to correct a condition that the fire department deemed a violation of M.G.L. c. 148, s. 27A. The relevant provisions of M.G.L. c. 148, s. 27A, state, (in pertinent part): “Except as hereinafter provided, no person shall shut off, disconnect, obstruct, remove or destroy, or cause or permit to be shut off, disconnected, obstructed, removed or destroyed, any part of any sprinkler system...used for fire protection...without first procuring a written permit so to do from the head of the fire department of the city or town wherein such building is situated....”

The statute creates a criminal penalty for a violation of said section “by imprisonment for not more than one year or by a fine of not more than one thousand dollars, or both.” The statute also clearly indicates that “The supreme judicial and superior courts shall have jurisdiction in equity to enforce compliance with the provisions of this section.”

- 2) On May 5, 2013, the Fire Prevention Regulations Appeals Board issued a guidance document to assist interested parties to understand the jurisdiction, procedures and role of the newly created appeals Board. Paragraph # 3 of said document details the jurisdiction of the Board:

The Appeals Board’s jurisdiction is limited to appeals filed by persons aggrieved by decisions, determinations and orders issued by “. . . any state or local official charged with the enforcement of the state fire code, relative to fire protection requirements for buildings and structures...” In most cases, the official who enforces the State Fire Code is the head of the fire department or in some cases, the State Fire Marshal (or their designees as applicable). By statute, **the jurisdiction of the Appeals Board is limited to those appeals relating to the provisions of the State Fire Code, 527 CMR “. . . relative to fire protection requirements for buildings and structures...”** The Appeals Board anticipates that most appeals will arise out of issues of a technical nature relating to fire protection requirements of the State Fire Code.

Clearly, the Appellant’s appeal is based upon the Melrose Fire Department’s enforcement of the provisions of M.G.L. c. 148, s. 27A and not a provision of the State Fire Code. The alleged violation involving the disabling and partial removal of the sprinkler system without a s. 27A permit from the head of the fire department, is solely a matter within the scope of the statute. Section 27A creates the specific violation, the criminal penalty and the obligation to seek a permit. Said section also specifies that the Supreme or Superior Court has the jurisdiction, in equity, to enforce compliance. The Board notes that there is no provision of the state fire code that requires a permit to remove such a system. The reference to the permit requirement in 527 CMR 1.06(2) is merely a reference to the provisions of s. 27A. This determination is also consistent with paragraph 4 of the Board’s

May 5, 2013 guidance document which states in part, "The Appeals Board **cannot or will not** exercise jurisdiction to hear appeals relating to the following matters: . . . (e) Matters arising out of the enforcement of a violation of any statute, including the provisions of M.G.L. c. 148 or arising out of any Order issued by the head of the fire department or the State Fire Marshal relating to the abatement of a condition that constitutes a fire or explosion hazard or which is dangerous or unsafe or a menace to public safety (M.G.L. c. 148, s. 5; 527 CMR 1.06) . . ." As previously noted, the parties are not without remedy, as this matter may be heard by the appropriate court pursuant to M.G.L. Chapter 148, section 27A.

**G) Decision and Order**

Based upon the forgoing reasons, this Board hereby **dismisses** this appeal due to a lack of jurisdiction.

**H) Vote of the Board**

Anthony P. Caputo, Presiding Panel Member	In Favor
Jeffrey Cox	In Favor
Chief Eric H. Madison	In Favor

**I) Right of Appeal**

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

SO ORDERED,



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Anthony P. Caputo, Presiding Panel Member  
Fire Prevention Regulations Appeals Board

Dated: September 25, 2013

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

Theodore Lantzakis  
6 Shipley Court  
Middleton, Massachusetts 01949

Captain John White  
Melrose Fire Department  
576 Main Street  
Melrose, Massachusetts 02176