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

*Automatic Sprinkler Appeals Board*

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DANIEL GARY ROGERS  
CHAIR

KRISTIN M. KELLY  
VICE CHAIR

**Docket # 2024-10**  
**19 Washington Square**  
**Salem, Massachusetts**

**AUTOMATIC SPRINKLER APPEALS BOARD DECISION**

**A) Statutory and Regulatory Framework**

This administrative appeal is held in accordance with Massachusetts General Law, Chapter 30A; Chapter 148, section 26H and Chapter 6, section 201, relative to a decision of the Salem Fire Department requiring Matthew and Kelly Baldassari, owners of The Stepping Stone Inn (hereinafter referred to as “the Appellant”), to install automatic sprinklers in a building at 19 Washington Square, Salem, Massachusetts.

**B) Procedural History**

By written Order dated May 29, 2024 and received by Mr. and Mrs. Baldassari on or about June 1, 2024, the Salem Fire Department required automatic sprinklers to be installed throughout a building located at 19 Washington Square, Salem, Massachusetts. The Order was issued pursuant to the provisions of M.G.L. c. 148, section 26H. On July 9, 2024, the Appellant filed a timely appeal of the determination with the Automatic Sprinkler Appeals Board.

Appearing on behalf of the Appellant were: Matthew and Kelly Baldassari, owners of The Stepping Stone Inn. Appearing on behalf of the Salem Fire Department was Beth Rennard, Esq., City Solicitor; Gerard Frechette, Salem Fire Department Fire Marshal; and Deputy Chief Peter Schaeublin.

Present for the Board at the hearing were: Daniel Gary Rogers, Chair; Kristin Kelly, Vice Chair; H. Jacob Nunnemacher (designee of the State Fire Marshal); Deputy Chief Colin Kelly (designee of the Boston Fire Commissioner); Chief Michael Spanknebel; and Alexander MacLeod. Rachel E. Perlman, Esq., served as counsel to the Board.

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

Whether the Order of the Salem Fire Department requiring sprinklers in the house located at 19 Washington Square, Salem, Massachusetts pursuant to M.G.L. c. 148, section 26H, should be affirmed, reversed or modified?

**D) Evidence Received**

1. Application for Appeal filed by Appellant (dated 7/9/2024)
2. Statement in Support of Appeal (dated 7/3/2024)
3. Order of Notice of the Salem Fire Department to Appellant (dated 5/29/2024)
4. Copy of City of Salem Lodging House License issued to Stepping Stone Inn (dated 1/1/2024)
5. Property Record Card for 19 Washington Square, Salem from Patriot Properties, Inc. (Undated)
6. Submissions from the City of Salem / Salem Fire Department
- 6A. City of Salem Acceptance of MGL c. 148 Sec. 26H (4 pages) (dated 2/17/1987)
- 6B. City of Salem Assessor's Record of Stepping Stone Inn, 19 Washington Square N. (dated 9/3/2024)
- 6C. City of Salem 2024 Certificate of Inspection for Stepping Stone Inn, 19 Washington Square N. (dated 5/22/2024)
- 6D. Stepping Stone Inn Website Guestroom Information  
[www.thesteppingstoninn.com](http://www.thesteppingstoninn.com) (6 pages) (dated 9/3/2024)
- 6E. May 29, 2024 Letter from City of Salem Fire Marshall of MCL c. 148 s. 26H Non-compliance to Stepping Stone Inn, 19 Washington Square N. (dated 5/29/24)
- 6F. Salem Licensing Board Minutes of Meeting March 10, 2014, approval of lodging house license for Stepping Stone Inn, 19 Washington Square N. (dated 3/10/2014)
- 6G. City of Salem 2024 Lodging House License for Stepping Stone Inn, 19 Washington Square N. (1/1/2024)
- 6H. Automatic Sprinkler Board Appeals Board Decision, Docket #2020-05, 4 Prospect Ave., Onset, MA (6 Pages) (dated 10/27/2020)
- 6I. Salem Fire Department Fire Prevention General Checklist Inspection Result (dated 5/22/2024)

**E) Subsidiary Findings of Fact**

- 1) By written Order dated May 29, 2024 and received by Mr. and Mrs. Baldassari on or about June 1, 2024, the Salem Fire Department required automatic sprinklers to be installed throughout a building located at 19 Washington Square, Salem, Massachusetts.
- 2) The Appellants testified that the property at issue is The Stepping Stone Inn, which was described as a six (6) room bed and breakfast located in Salem, Massachusetts. The home is approximately 3,200 s.f. and was constructed in 1846. The Appellants stated that they live on the top floor (attic) of the home and rent out the rooms for stays of up to seven (7) days.
- 3) The Appellants stated that the property contains numerous fire safety measures including two large fire escapes off the sides of the home; two points of egress from every room; a wired smoke detector system; emergency fire lighting fire pulls at each exit; fire extinguishers; carbon monoxide detectors; and a wired fire alarm system. The Appellants indicated that in the ten years of owning the Inn, it has passed all required fire department inspections.
- 4) The Appellants argued their property does not fit the definition of a "lodging" house and believe that M.G.L. c. 148, s. 26H is being applied too broadly in this matter. The Appellants stated their ability to own/occupy and run their business is bound by the requirements listed on the license issued by the City of Salem.

- 5) The license in question, as submitted into the record by the City of Salem (Exhibit 6G), is a Lodging House License issued by the Licensing Board for the City of Salem. The license specifically states, “19 Washington Square - For use only as a Bed & Breakfast per Licensing Board 3/14.”
- 6) The Appellants further testified that the term “bed and breakfast” is defined in the Massachusetts General Laws (Chapter 64G, s. 1) and that their property/business fits that definition, as they have more than four (4) rooms on site, they live on premise, and that they serve breakfast to guests. Further, they argued that since the term “bed and breakfast” is absent from M.G.L. c. 148, s. 26H, the statute does not apply to their property.
- 7) The Appellants stated that reservations for their inn can be made either directly through their website or through other booking websites, including booking.com, Expedia.com and through Air BnB.
- 8) When questioned by the Board as to the historic status of the home, the Appellants stated that while the property is recognized as a historic property by Historic Salem, they have not applied for official recognition as a National Historic Landmark.
- 9) In support of the Order of Notice issued by the Salem Fire Department, Attorney Rennard stated that the City of Salem adopted the provisions of M.G.L. c. 148, section 26H on or about February 17, 1987 (Exhibit 6A).
- 10) Attorney Rennard stated that the City’s position is that the inn is a six (6) room inn which meets the definition of M.G.L. Chapter 148, section 26H, as the Appellants rent to six or more persons that are unrelated to them. As a result, they must install automatic sprinklers.
- 11) Salem Fire Department Fire Marshal, Gerard Frechette, testified that he became the Fire Marshal in February 2024 and conducted his first inspection of the premises on May 22, 2024 in conjunction with the Salem Board of Health for licensing purposes. Marshal Frechette stated that during the inspection, he noticed the property did not have sprinklers and wondered why.
- 12) Marshal Frechette stated that while the property has six rooms to let, M.G.L. c. 148, s. 26H does not count how many rooms are at play but rather, how many persons are in the property. He stated that if all six rooms are being rented at double occupancy, there could be 12 unrelated individuals in the home, including the property owners, for a total of 14 people. As a result, he made the determination to issue the order under s. 26H and stated that, in his opinion, there is no difference between a lodging house and a bed and breakfast.

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

- 1) The Board finds that the City of Salem adopted the provisions of M.G.L. c. 148, section 26H on or about February 17, 1987.

- 2) Section 26H requires the installation of an adequate system of automatic sprinklers in accordance with the state building code in certain lodging or boarding houses. The statute requires installation of said system in all applicable houses within five years after acceptance of the law by a City or Town. The statute defines a “lodging house” or “boarding house” as a house “. . . where lodgings are let to six or more persons not within the second degree of kindred to the person conducting it . . .”

**G) Motion Before the Automatic Sprinkler Appeals Board**

A motion was made by Ms. Kelly and seconded by Chief Spanknebel to uphold the Order of the Salem Fire Department and to require the installation of an adequate system of sprinklers throughout all portions of the subject building in accordance with the provisions of M.G.L. Chapter 148, section 26H.

**H) Vote of the Board on the Motion**

Daniel Gary Rogers, Chair	Opposed
Kristin M. Kelly, Vice Chair	In Favor
H. Jacob Nunnemacher	In Favor
Deputy Chief Colin Kelly	Opposed
Chief Michael Spanknebel	In Favor
Alexander MacLeod	Opposed

Under Massachusetts General Laws Chapter 6, Section 201 “[e]very decision shall require the concurrence of a majority of those members holding the public hearing [...]”. Section 201 grants the Board authority to review and either affirm, modify, or reverse certain decisions made by the head of the fire department relative to the installation of automatic sprinkler protection.

In every appeal, the burden of proof rests with the Appellant seeking to reverse the fire department’s order. When a fire department issues such an order, it carries a presumption of validity and correctness. The Appellant must provide sufficient evidence and arguments to convince the Board to either reverse or modify the fire department’s order. However, if the Board remains equally divided on an appeal, the legal and procedural outcome favors the status quo<sup>1</sup>, meaning the fire department’s original order remains intact and enforceable. In this case, a tie

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<sup>1</sup> The Board takes administrative notice of the following: *Andrew Harris and Spence Tatum, Complainants v. City of Worcester Police Department, Respondent*, 2006 WL 662739, at \*4 (“As a general princip[le], the inability to reach a consensus on whether to affirm or reverse the decision below results in the decision below standing when, as here, there is a tie vote.”); *McGuinness v. Dep’t of Correction*, 465 Mass. 660, 991 N.E.2d 176 (2013) (“Commission’s tie vote had the effect that magistrate’s decision became Commission’s final decision, which was subject to judicial review.”); *Shannon v. Shannon*, 92 Mass. 249, 249 (1865) (The judgment will be affirmed, or exceptions overruled, where the appellate court is divided in opinion); *Reed v. Davis*, 21 Mass. 216, 226 (1826). (As to the question, whether a new trial should be granted because the damages are excessive, the Court are [sic] equally divided, so the motion for a new trial upon that ground cannot prevail”); *Fresh Pond Shopping Ctr., Inc., v. Rent Control Bd. of Cambridge*, 388 Mass. 1051, 446 N.E.2d 1060, 1060 (1983) (The judgment of the Superior Court is affirmed by an equally divided court).

vote precludes the Board from acting on the fire department's order and is not an affirmative decision in favor of either party.

**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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Daniel Gary Rogers, Chair

Dated: October 1, 2024

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

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c/o The Stepping Stone Inn  
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