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Department of Fire Services



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STEPHEN D. COAN
STATE FIRE MARSHAL

MEMORANDUM

To: Heads of Fire Departments

From: Stephen D. Coan
State Fire Marshal

Date: December 27, 2012

RE: **Clarification on the effect of State Preemption of Municipal Ordinances or bylaws, St. George's Greek Orthodox Cathedral of Western Massachusetts v. Fire Department of Springfield, Revisited.**

On May 4, 2012, the Massachusetts Supreme Judicial Court issued its opinion in the St. George's case. The question in that case was: whether the provisions of the State Building Code (7th Edition), specifically section 907.14.3 of 780 CMR, preempted the enactment and enforcement of a City of Springfield ordinance (Title 7, section 7.13.050), which required the installation of a wireless radio box as the only acceptable means of fire detection/notification allowed to be installed in the City of Springfield? The answer is yes.

Although the wireless radio box is one of the four methods approved under the State Building Code, the Court held that the City could not regulate by ordinance or bylaw in an area specially regulated by the State Building Code, even if the means of notification was one of the methods approved by the State Building Code. As the Court stated, "where the Legislature demonstrates its express intention to preempt local action . . . (the Legislature had sunsetted all local building codes pursuant to Chapter 802 of the Acts of 1972), local regulations [ordinance or bylaws] are invalid. If municipalities were allowed to enact similarly restrictive ordinances or bylaws, a patchwork of building regulations would ensue."

The Court noted that the City [cities or towns] are not without recourse. It could appeal to the Board of Building Regulations and Standards ("BBRS") to allow it to use more restrictive standards pursuant to Chapter 143, s. 98 or; it could propose amendments to the State Building Code; or it could seek legislative change.

This case, decided by the Supreme Judicial Court, is precedent and applies to every jurisdiction across the state and stands for the proposition that **no city, town or municipal fire department**, by ordinance, bylaw, or local rule or regulation, can regulate in an area occupied by the State Building Code (any edition). However, please be aware that this decision does not affect local option adoption or enforcement of fire protection measures such as sprinklers or smoke detectors/alarms or carbon monoxide detectors required by and permitted in accordance with, Chapter 148 of the General Laws.