

STATE OF MINNESOTA

STATE BUILDING CODE BOARD OF APPEALS

In the Matter of the Appeal of
ESG Architects,

AMENDED FINAL DECISION

Dated: 4/3/2019

Appeal No. 19-01

This matter came on for hearing before the State Building Code Board of Appeals (“Board”) on February 25, 2019. The record closed at the conclusion of the hearing.

Mike Miller and Rebecca Ueland, ESG Architects, appeared for applicant and appellant ESG Architects (“ESG”). John Nordstrom, Emanuelson-Podas, also appeared. Kenneth Staloch, Building Official for the City of Minneapolis (“Building Official”), appeared on behalf of respondent City of Minneapolis. Ardy Goudarzi, Plan Examiner II (“Plan Examiner”), also appeared for the City of Minneapolis.

The issue in this appeal is whether the Building Official correctly determined that ESG Architects planned apartment units did not fall under the exception to the 2015 Minnesota Mechanical and Fuel Gas Code (“Fuel Gas Code”) found in section 501.4.1 and Table 501.4.1¹ of the Fuel Gas Code.

Fuel Gas Code section 501.4.1 and table 501.4.1 address requirements for makeup air in new dwelling units. Column 1 of the Table provides requirements for when no combustion appliances are present. An exception to section 501.4.1 applies when a specific test is used to measure makeup air in the presence of vented combustion appliances and the applicant documents that the appliances operate within the established parameters of the test. Section 501.4.1 and Table 501.4.1 explicitly address residential clothes dryers. The plans submitted by ESG architects show that the proposed residential clothes dryers are electrical appliances and are not combustion appliances. The Building Official determined that because ESG Architects proposed to use electric clothes dryers, the exception for combustion appliances did not apply and ESG Architects must comply with column 1 of Table 501.4.1. Miller contended that this interpretation of the Fuel Gas Code was contrary to the goals of the Fuel and Gas Code and that it conflicted with the International Energy Conservation Code.

¹ “Table 501.5.1” was included in the initial Final Decision as a typo and has been amended to “Table 501.4.1” to reflect the information in the record. This is the only change to the initial Final Decision of the Board.

The Building Official and Plan Examiner explained that they consider section 501.4.1 and Table 501.4.1 to apply to all dwelling units, including multifamily dwelling units, and that they establish a code-required minimum for dwelling units. Minnesota Rule 1300.0040 states that “[i]f different provisions of the code specify different materials, methods of construction, or other requirements, the most restrictive provision governs. If there is a conflict between a general requirement and a specific requirement, the specific requirement applies.

The board members determined that the exception to section 501.4.1 of the Fuel Gas Code did not apply to ESG Architect’s project because the exception applies specifically to “combustion appliances” and not to electric appliances. The board members discussed that it is their role to interpret and apply the code and that they do not have the authority to disregard it. The Building Official stated that the building was complete and that he was open to receiving an alternative proposal from ESG Architects that will satisfy the code after testing. ESG Architects stated that it is not opposed to additional testing.

Pursuant to the Board’s authority under Minn. R. 1300.0230, and based upon the entire record, including all documents, testimony, arguments submitted to the Board, the Board moved to affirm the decision of the building official of Minneapolis because the exception to Section 501.4.1 of the Minnesota Mechanical and Fuel Gas Code does not apply to the project in this case. As such, column 1 of Table 501.4.1 applies to makeup air for electric clothes dryers in dwelling units at the project. The vote was unanimous in favor of the motion, and the motion carried.

RIGHTS OF APPEAL

This is the final decision of the State Building Code Appeals Board in this matter. A person aggrieved by this decision may, within 180 days of its date, appeal to the Commissioner of Labor and Industry as set forth in Minn. Stat. § 326B.139.



SCOTT McKOWN, Chair
State Building Code Appeals Board