

STATE OF MINNESOTA

STATE BUILDING CODE BOARD OF APPEALS

In the Matter of the Appeal of
Debra Soule,

FINAL DECISION
Dated: 4/3/18

Appeal No. 18-01

This matter came on for hearing before the State Building Code Board of Appeals (“Board”) on March 13, 2018. The record closed at the conclusion of the hearing.

Charles Thomas, of Southern Minnesota Regional Legal Services, appeared on behalf of Debra Soule, the applicant and appellant in this matter. Frank Martin, Building Official for the City of Inver Grove Heights, appeared on behalf of respondent City of Inver Grove Heights.

The issue in this appeal is whether the City of Inver Grove Heights Building Official had the authority to decide whether Appellant’s proposed window-box air conditioning unit was permitted in her apartment.

Ms. Soule applied to the City of Inver Grove Heights Fire Marshal, Jeff Schadegg, to seek permission to install a window-box air conditioning unit in her apartment to help deal with a medical condition that is exacerbated by heat. After initial discussions with Ms. Soule, Mr. Schadegg transferred the matter to Mr. Martin for consideration. Mr. Martin ultimately denied permission for Ms. Soule to utilize the window-box air conditioning unit and Ms. Soule appealed to the Board.

The administration of Minnesota’s Building Code is detailed in Minnesota Rules Chapter. 1300. Minnesota Rule, Part 1300.0040, subdivision 2, discusses the scope of the Building Code, and refers to Minn. R. 1311 for existing buildings undergoing alterations. Minnesota Rules Chapter 1311 adopts the International Existing Building Code (“IEBC”). Minn. R. 1311.0010. The only reference that can be found to windows in the IEBC appears in section 504.1. Section 504.1 discusses that it applies to the “addition or elimination” of a window. As such, because Appellant is not requesting to eliminate a window, the IEBC does not apply to this situation. Conversely, the Minnesota State Fire Code, Chapter 7511, covers the construction requirements for existing buildings. The code went into effect on May 2, 2016, and therefore covers Appellant’s building. The Fire Code is governed under Minnesota Rules. Chapter. 7511, and neither the Building Official nor the Board of Appeals has authority to make determinations under that code.

Pursuant to the Board's authority under Minn. R. 1300.0230, and based upon the entire record, including all documents, testimony, and arguments submitted to the Board, the Board has determined that this matter must be remanded to the City of Inver Grove Heights for a decision by the Inver Grove Heights Fire Marshal under the Fire Code, including any appeals of that decision. The motion to remand passed unanimously.

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.

A handwritten signature in black ink, appearing to read "Scott McKown", written over a horizontal line.

SCOTT McKOWN, Chair
State Building Code Appeals Board