

STATE OF MINNESOTA

STATE BUILDING CODE APPEALS BOARD

In the Matter of the Appeal of Midwest Walls

Appeal No. 15-03

FINAL DECISION

Dated: June 22, 2015

This matter came on for hearing before the State Building Code Appeals Board (“Board”) on May 19, 2015. The record closed at the conclusion of the hearing. The Board authorized its Chair, Scott McKown, to prepare and issue the Board’s final written decision.

Craig Richardt, Principal, and Shaun Palmer, Project Manager, appeared on behalf of Appellant Midwest Walls. Randy S. Johnson, Building Official, appeared on behalf of Respondent City of Rochester, Minnesota (“City”).

Midwest Walls appeals Item 2 of the City’s correction letter dated April 16, 2015, which quoted from an International Code Council Evaluation Service Evaluation Report (“ESR-1662”) and stated, with regard to Midwest Walls’ drawings and calculations: “‘NOT CLEARED.’ No signed Engineered drawings with calculations were submitted for review. Please provide design calculations and drawings per ESR-1662 as stated above.” The issue in this appeal is whether the City’s Building Official has authority to require Midwest Walls to submit engineered drawings of precast concrete walls that Midwest Walls proposed to install at 3401 Lakeridge Place NW in Rochester.


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 holds that the City’s Building Official has authority to require documentation with sufficient detail to demonstrate that Midwest Walls’ precast concrete foundation walls are designed in accordance with accepted engineering practices and/or certification by a licensed design professional. The Board’s decision is supported by a variety of facts and information discussed during the hearing.

“Precast concrete foundation walls shall be designed in accordance with accepted engineering practices.” 2015 Minnesota Residential Code § R404.5.1. “Precast concrete foundation wall design drawings shall be submitted to the *building official* and *approved* prior to installation,” and “at a minimum” must include certain specified information. *Id.* § 404.5.2 (emphasis in original). “Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that it will conform to the code and relevant laws, ordinances, rules, and regulations, as determined by the building official.” Minn. R. 1300.0130, subp. 2. Pursuant to Minn. R. 1300.0130, a Building Official in Minnesota is required to examine construction documents to ascertain whether proposed construction complies with the building code and is not required to approve or accept any and all documents submitted. Rather, if the Building Official determines that the documents submitted by a permit applicant are not sufficiently clear to demonstrate code compliance, additional information or documents—including plans prepared by a licensed design professional—may be required.

At hearing, the Building Official explained that the City needs additional information it has not yet received in order to verify that Midwest Walls' precast concrete foundation walls are designed in accordance with accepted engineering practices. The City initially sought data and information regarding the design and construction of the walls and began asking for certification by an engineer only after Midwest Walls was unable to provide the requested information. In other words, the City's request for engineered drawings does not depend on any statute or rule requiring engineered drawings in every instance, but on the Building Official's determination that the documents submitted with Midwest Walls' permit application are not sufficiently clear to demonstrate code compliance. Although ESR-1662 provides some information about the walls, it is not a blanket approval of code compliance that displaces building officials' discretion and duty to determine the sufficiency of an applicant's documentation under Minn. R. 1300.0130. The City therefore had authority to require Midwest Walls to submit engineered drawings.

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 (2014).



SCOTT MCKOWN, Chair
State Building Code Appeals Board