COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss. **Building Code Appeals Board**
Docket No. 05-505

Performance Food Group, Appellant	)
v.	)
City of Springfield, Appellee	)

BOARD'S RULING ON APPEAL

Procedural History

This matter came before the State Building Code Appeals Board ("Board") on Appellant's appeal filed pursuant to 780 CMR §122.1. In accordance with 780 CMR §122.3, Appellant asks the Board to grant a variance from 780 CMR §903.2.1 of the Massachusetts State Building Code ("Code") with respect to a fire protection system for a distribution center, consisting of approximately 100,000 square feet, for dry goods under heated storage and for food products under cold storage ("Facility"). The Facility is located at 1289 Roosevelt Avenue, Springfield, MA.

By letter dated November 26, 2007, Mark E. Hebert, Senior Building Inspector for the City of Springfield ("Appellee"), informed Appellant that its request for "Alternative Fire Protection Design Methodologies Acceptance" had been declined, and Appellant must seek a variance pursuant to §903.2.1.

In accordance with G. L. c. 30A, §§10 and 11; G. L. c. 143, §100; 801 CMR §1.02 et. seq.; and 780 CMR §122.3.4, the Board convened a public hearing on December 18, 2007 where all interested parties were provided with an opportunity to testify and present evidence to the Board.

The following individuals appeared on behalf of Appellant: Carl Koslowski, of Rybak Engineering; Michael MeKeever, of Wiginton Fire Systems; David LeBlanc, of Tyco Fire and Building Products; Chip Stokes, of HFP Fire Sprinker; John Viola, of HFP Fire Sprinkler; Justin B. Edwards, of Wiginton Fire Systems. John F. Cossaboom and Mark E. Herbert appeared on behalf of Appellee.

The following Exhibits were accepted into evidence: Exhibit 1, Appellant's Application to Board, including "Fire Sprinkler System Protection Narrative Report," prepared by HFP

Corporation; Exhibit 2, Wigniton Fire Systems Submittal to the Board for December 18, 2007 hearing.

Discussion

The issue is whether Appellant should be allowed a variance pursuant to 780 CMR §903.2.1 with respect to the fire protection system for the Facility. Specifically, a portion of the fire sprinkler system uses the Quell ™ design method. The central point is whether the Quell ™ design should be accepted as a compliance alternative under §903.2.1.

The Board considered Appellant's testimony (from its various experts) and the written information submitted in Exhibit 2, that the system complies with NFPA 13. Although there is evidence that the Quell ™ design is adequate, a visual field test observed by Appellee did not take place, probably (as Appellant conceded) due to communication mistakes on Appellant's part. Appellant testified that software testing, quality control during the manufacture and installation of the components, third party engineering review, and examples of the same technology in other facilities amply assure that the system will function and, that there are no impediments in the sprinkler lines.

Appellee emphasized that when it wanted to see a test at the Facility, it could not see "a flow of the Quell ™ system." According to Appellee, one of the reasons why it could not see a fluid test was because Appellant had already begun to refrigerate the facility, a fluid test would freeze the sprinkler system. Appellee expressed concern that if there were any type of obstruction in the sprinkler system, there could be an impediment to its intended function. Appellee also emphasized that if another Quell ™ system were to come within the City's jurisdiction, Appellee would insist on witnessing actual field tests at the facility.

However, Appellee offered that if the Board were willing to accept what has been presented in writing, and agree that the system will work based on the information presented, Appellee would agree with allowing the variance for this case only.

The Board responded that it could not represent that the system will work, but it will consider whether the evaluation and testing that has taken place and the Quell ™ system for the Facility would meet the review requirements of §903.2.1

The Board noted the following considerations in applying §903.2.1 to the facts: a flow test now would be extremely expensive and cause hardship; Appellee is willing to accept this particular system; a flow test may not identify all obstructions that might exist; there is a third party review stating that the system is valid technology; there is an engineer's certification that the system was installed according to plans reviewed by a third party; the system is functioning as it was intended to function; that quality assurance procedures were followed as the system was installed; that the Quell ™ software program that was used to design the system is UL listed; that there has been construction control by a Massachusetts registered professional engineer.

Decision

The Chair entertained a motion to grant a variance to allow an alternative system pursuant to 780 CMR §903.2.1 ("Motion"). Following testimony, and based upon relevant information provided, Board members voted to allow the Motion, as described on the record. The Board voted as indicated below.

X..... Granted ☐..... Denied ☐..... Rendered Interpretation☐

___.....Granted with conditions ☐..... Dismissed

The vote was:

X.....Unanimous .....☐ Majority

Brian Gale — Brian Gale

Robert Anderson — Robert Anderson - Chair

Dana Haagensen — Dana Haagensen

Any person aggrieved by a decision of the State Building Code Appeals Board may appeal to a court of competent jurisdiction in accordance with Chapter 30A, Section 14 of the Massachusetts General Laws.

A complete administrative record is on file at the office of the Board of Building Regulations and Standards.

A true copy attest, dated: March 4, 2008

Patricia Barry

Patricia Barry, Clerk

All hearings are audio recorded. The digital recording (which is on file at the office of the Board of Building Regulations and Standards) serves as the official record of the hearing. Copies of the recording are available from the Board for a fee of $10.00 per copy. Please make requests for copies in writing and attach a check made payable to the Commonwealth of Massachusetts for the appropriate fee. Requests may be addressed to:

Patricia Barry, Coordinator
State Building Code Appeals Board
BBRS/Department of Public Safety
One Ashburton Place – Room 1301
Boston, MA 02108