



SAFETY CODES COUNCIL

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COUNCIL ORDER No. 0015423

ORDER

BEFORE THE FIRE TECHNICAL COUNCIL On June 21, 2012

IN THE MATTER OF the Safety Codes Act, Revised Statutes of Alberta 2000, Chapter S-1.

AND IN THE MATTER OF the Order dated March 14, 2012 issued by an Accredited Municipality (Respondent) against a Recreation Association (Appellant).

UPON REVIEWING the Order **AND UPON HEARING** the Appellant and the Respondent; **THIS COUNCIL ORDERS THAT** the Order is **VARIED**.

From:

“You are hereby Ordered to provide an annual fire alarm maintenance inspection report to the fire safety codes officer demonstrating the fire alarm system is maintained to CAN/ULC-S536 and is deficiency free by April 16th, 2012.”

To:

“You are hereby Ordered to provide to the authority having jurisdiction a current annual fire alarm maintenance inspection report demonstrating the fire alarm system is maintained to meet CAN/ULC-S536 requirements and to provide a verification report documenting compliance with CAN/ULC-S537 by October 29, 2012.”

From:

“You are hereby Ordered to provide a fire alarm system where all devices incorporated are compatible, including, but not limited to, the Notifier panel having reset capability with the MXL fire alarm network by April 16, 2012.”

To:

“You are hereby Ordered to provide a fire alarm system where all devices incorporated are compatible and in compliance, but not limited to the following requirements being met by October 29, 2012:

- a) provide documentation to verify the Notifier Fire Alarm sub panel that forms part of the deluge system in the theatre stage area is installed and verified in accordance with Alberta Building Code 1997 and CAN/ULC-S537-97,
- b) provide documentation to verify the flow monitoring device for the Deluge System is installed in compliance with CAN/ULC-S537-97,
- c) install visual signal devices in any floor area located within sound insulating enclosures, including enclosures partially insulated for acoustical measures.”

Preliminary Matters:

1. An objection was raised at the appeal hearing regarding the Panel’s jurisdiction to hear the appeal. The Appellant submitted that the Order was invalid as it was not served to all parties named on the Order, nor were unlisted entities involved in the complex provided with copies of the order.
2. The Respondent indicated that a land titles search provided the registered addresses (common address) of the parties named on the Order. The copy of the Order was sent to the registered addresses and a copy was left with the registered office. In addition, an advance copy of the Order was provided to the Appellant on March 13, 2012, for information purposes pending formal presentation of the Order to the registered parties on March 14, 2012.
3. The Appeal Panel adjourned to consider the objection and statements.
4. Upon reconvening, the Chair of the Appeal Panel advised that the Appeal Panel having heard and considered the arguments respecting jurisdiction; agreed that they have jurisdiction to hear the appeal. The Order was issued by a Fire Safety Codes Officer and the Appeal Panel is a panel of members of the Fire Technical Council. This is the appropriate body to hear an appeal of a fire safety codes order. This determines the Appeal Panel’s jurisdiction to hear the appeal. With regards to the Appellant’s objection of the service of the Order, the Safety Codes Officer issued and served the Order in accordance with the *Safety Codes Act* and the *Administrative Items Regulation*.

Issue:

5. The Appeal concerns a multi-use complex.
6. The issues on appeal are items 2 and 3 of the Order. The Appellant and the Respondent agree that items 1 and 4 of the Order have been satisfied.

- a) Item 2 orders the Appellant to provide an annual fire alarm maintenance inspection report to the fire safety codes officer demonstrating the fire alarm system is maintained to CAN/ULC-S536 and is deficiency free. The issue at appeal is whether the fire alarm maintenance inspection reports provided demonstrate the fire alarm system is maintained to the requirements of the Code without deficiencies.
- b) Item 3 orders the Appellant to provide a fire alarm system where all devices incorporated are compatible, including the Notifier panel having reset capability with the fire alarm network. In presentations by the Appellant and Respondent three issues were identified within item 3 of the Order: the theatre fire alarm Notifier panel, the theatre sprinkler deluge flow switch, and the school music department sound insulating enclosures. The issue at appeal is whether the fire alarm system meets the appropriate codes and standards and all devices or systems are compatible with the fire alarm network.

Position of the Parties

Appellant

7. The Appellant's position is that:

- a) Item 2 of the Order is satisfied. A copy of the inspection reports provided by the Appellant (Appellant's Exhibit 2A, 2B, and 2C) indicate that the fire alarm system is maintained and is deficiency free. (The Record, Item 8 (g) (h) and (i))
- b) Item 3 of the Order is satisfied. The three issues identified within item 3 of the Order: the Notifier, the flow device, and the sound insulating enclosure, are all compliant with the Code.
 - i. The Notifier is a device, comparable to any pull station, and can be reset. The Notifier is compliant with the Code and the Appellant is advised by an engineering company, that the operation of the Notifier is common practice. The only time the Notifier would have to be reset would be if the Notifier was the mechanism that triggered the alarm in the first place and, as a result, responders would have attended to that part of the building. The reset issue is a moot point.
 - ii. A flow valve has been installed and the Appellant, in presentation, indicated a willingness to undertake responsibility to determine appropriate positioning, actuation and signalling of the flow switch.
 - iii. The sound insulating enclosures are insulated for acoustical reasons and the sound level does not exceed 85 dba. The sound alarm in the corridor can be heard in the rooms. Not all rooms are used for music practice. One room, that does not have a visual signal device, is used for storage and the fire alarm audible device is sufficient to alert occupants. Rooms that are used for music practice have windows to the corridor where strobes are located, and the visual signal devices can be seen in the rooms.

- c) The fire alarm system and the building are compliant with Code. A building permit was obtained for the building and an occupancy permit was issued and signed off by all relevant departments of the Municipality, including the fire department.

Respondent

8. The Respondent's position is that:

- a) Item 2 of the Order has not been satisfied. A previous copy of the inspection reports, (Respondent's Exhibit #2) also dated November 2011, issued and unsigned by the inspector, identified "no" for the following two statements for the MXL-1Q(Network) Panel #5, "The Fire Alarm System is fully operational", and, "Deficiencies which may affect the proper operation of the system have been noted on the report in the remarks section." The Respondent's argument is that although the Appellant has submitted a new set of inspection reports indicating "yes" to the two above mentioned statements, there is no supporting documentation to explain the modification of the report from "no" to "yes" for the two statements. In addition, there is no indication on the signed inspection report that the inspector followed ULC/CAN 537 standards.
- b) Item 3 of the Order has not been satisfied. There are three issues to resolve to achieve compliance.
 - i. The Notifier is a panel that currently operates subservient to the main fire alarm panel. The Notifier panel is required to be addressed and reset, in person, prior to the main fire alarm system resetting to normal operations. The fire alarm network, located a considerable distance away from the Notifier Panel, cannot reset the Notifier if that panel goes into alarm. This causes concern that the Notifier may be non-compatible with the fire alarm system. The Notifier could not be reset from the main panel located quite a distance away at another part of the building. As a result, responders would not travel to the location of the Notifier to reset it.
 - ii. A flow device is required for the theatre sprinkler deluge system. One has been installed since the issuance of the Order, however there is no indication of how the flow detection device is enunciating or if it has been verified.
 - iii. The music practice rooms in the school area of the building do not have visual signal devices as required by 3.2.4.19. (7) of the ABC 1997.
- c) There is no evidence that a permit was issued approving the fire alarm system.

The Record:

9. The Appeal Panel considered and had available for reference, the following documentation:

- a) Letter dated May 30, 2012, from the Coordinator of Appeals to the Appellant, providing written notification of the appeal hearing.

- b) Letter dated April 19, 2012, from the Fire Technical Council to the Appellant, granting a Stay of the Order.
- c) Letter dated April 18, 2012, from the Coordinator of Appeals to the Appellant, acknowledging receipt of the Appellant's Notice of Appeal and request for a Stay of the Order.
- d) Letter dated April 11, 2012, from the Appellant to the Coordinator of Appeals providing notice of appeal and requesting a Stay of the Order.
- e) Copy of the Respondents Order dated March 14, 2012.
- f) Appellant's Exhibit #1 – coloured map of the site at the multi-use complex.
- g) Appellant's Exhibit #2A –Inspection Report for educational facility within the multi-use complex, dated “Nov.2011”, and signed by the inspector.
- h) Appellant's Exhibit #2B –Inspection Report for library facility within the multi-use complex, dated “Nov.2011”, and signed by the inspector.
- i) Appellant's Exhibit #2C –Inspection Report for the Main Panel, dated “Nov.2011”, and signed by the inspector.
- j) Appellant's Exhibit #3 – A letter from an engineering company dated April 18, 2012, regarding the educational facility within the multi-use complex.
- k) Appellant's Exhibit #4 – Product information document for the Notifier, RP-1001 Pre-Action/Deluge Control Panel.
- l) Appellant's Exhibit #5 – Photograph of the Notifier panel for the theatre.
- m) Appellant's Exhibit #6 – Drawing Title Main Floor Plan Theater Power and Systems.
- n) Appellant's Exhibit #7 – Referral Notes from Record Drawings Dated “Dec. 02”.
- o) Respondent's Exhibit #1 – Presentation folder with 9 Tabs including documentation of the Order, building description, site plan, inspection history, communications, AFC & ABC code references, safety codes & administrative items references, manufacture's letters, and photographs.
- p) Respondent's Exhibit #2 – Stapled package of manufacture's reports, 34 pages in total.

10. The Appeal Panel considered all materials comprising the record of this proceeding, including the evidence and argument provided by each party. References in this decision to specific parts of the record are intended to assist the reader.

Legislation and Codes:

11. The Alberta Fire Code includes provisions for the on-going maintenance and use for the fire safety and fire protection features incorporated in buildings. The Alberta Building Code covers the fire safety and fire protection features that are required to be incorporated in a building at the time of its original construction. The applicable codes are the Alberta Fire Code 2006 (AFC 2006) and the Alberta Building Code 1997 (ABC 97). The building was constructed under the requirements of the Alberta Building Code 1997.

Alberta Fire Code 2006

Division C

2.2.1.2. Records

- 1) Where this Code requires that plans be provided, or that tests, inspections, maintenance or operational procedures be performed, records shall be made and the original or a copy shall be retained at the premises for examination by the *authority having jurisdiction*.
- 2) The initial verification or test reports for each system shall be retained throughout the life of the systems.

Alberta Building Code 1997

3.2.4.16. System Monitoring

- 1) An automatic sprinkler system shall be equipped with waterflow detecting devices and, if an annunciator is required by Article 3.2.4.8., shall be installed so that each device serves
 - a) not more than one *storey*, and
 - b) an area on each *storey* that is not more than the system area limits as specified in NFPA 13, "Installation of Sprinkler Systems."
- 2) Waterflow detecting devices required by Sentence (1) shall be connected to initiate an *alert signal* or an *alarm signal* on the fire alarm system.
- 3) The actuation of each waterflow detecting device required by Sentence (1) shall be indicated separately on the fire alarm system annunciator.

3.2.4.19. Audibility of Alarm Systems

- 7) Fire alarm audible signal devices shall be supplemented by visual signal devices in any *floor area* in which
 - a) the ambient noise level is more than 87 dBA, or
 - b) the occupants of the *floor area*
 - i) use ear protective devices,
 - ii) are located within an audiometric booth, or
 - iii) are located within sound insulating enclosures

3.2.4.20 Visual signals

2) Visual signal devices required by Sentence 3.2.4.18.(4) and 3.2.4.19.(7) and (8) shall be installed so that the signal from at least one device is visible throughout the *floor area* or portion thereof in which they are installed. (See Appendix A.)

Findings of Fact:

12. The building is divided into two buildings. Building 1 is classified as a Group A, Division 3 occupancy. Building 2 is classified as a Group A, Division 2 occupancy.
13. In testimony and cross-examination, the Appellant and the Respondent agreed that items 1 and 4 of the Order have been satisfied.
14. The Appellant and Respondent disagree whether items 2 and 3 of the Order have been satisfied. (see Positions above)
15. Two sets of inspection reports were submitted in presentation. Both sets of reports indicate that the same technician. The Respondent submitted inspection reports dated November 2011 which indicated “no” for the following two statements relative to MXL-1Q (NETWORK) PANEL #5 “The Fire Alarm System is fully operational’ and ‘Deficiencies which may effect the proper operation of the system have been noted on the report in the remarks section.” These reports were not signed.
16. The Appellant submitted inspection reports dated November 2011 which indicated “yes” for the two statements relative to MXL-1Q (NETWORK) PANEL #5. “The Fire Alarm System is fully operational’ and ‘Deficiencies which may effect the proper operation of the system have been noted on the report in the remarks section.” These reports were signed.
17. In testimony, the Appellant indicated that the technician made a mistake in interpreting the specifications and design of the system relative to panel #5, and that when the technician became aware of the letter from the engineering company (Appellant’s Exhibit 3), providing clarification of the specifications and design, and through consultation with personnel having the appropriate expertise, the technician acknowledged his error and subsequently issued the modified report. (The Record Item 5(j))
18. The Appellant indicated that compliance had to have been established in 2000 in order for the complex to be occupied. Documentation to support compliance in 2000, such as a building permit or an occupancy permit, was not presented at the appeal hearing.
19. No supporting documentation relative to compliance of the fire alarm system with CAN/ULC-S537 was presented.

Reasons for Decision:

20. Based on the documentation received and oral testimony, the Appeal Panel does not accept that item 2 of the Order has been satisfied. In submissions from the Appellant and the Respondent, there were inspection reports submitted that firstly indicated non-compliance, and then in a report issued after, the non-compliance is not evident. Both reports are dated November 2011, and one set of reports are signed and another set of reports are unsigned. The one that identified the deficiency is dated the same date as a report without deficiencies. The Appeal Panel does not give weight to the inspection reports as evidence to address item 2 of the Order. Although one set of reports is signed and the other one is not, the Appeal Panel does not give more weight to the signed report in considering the two reports. Without explanation from the author of the reports, or documentation indicating the reason for the modification of the report, the Appeal Panel has only the Appellant's oral testimony that it was determined that the technician had made an error on the first report (Respondent's Exhibit #2) and that when the reports were reviewed by someone else, the inspection report was then re-issued without deficiencies.
21. The Appeal Panel varied item 2 of the Order to include the provision of the verification report for the fire alarm system. Documentation relative to compliance with CAN/ULC-S537 at the time of installation, if currently being met, will establish the system is deficiency free.
22. The Appeal Panel varied item 3 of the Order. The provision of the original verification certificate should establish the compatibility of the Notifier with the MXL system. If an existing fire alarm verification certificate cannot be produced than a new assessment of the fire alarm system must be undertaken to ensure compliance with code. The AFC 2006 states that where the code directs that plans be provided, or that tests, inspections, maintenance or operational procedures be performed, records shall be made and the original or a copy shall be retained at the premises for examination by the authority having jurisdiction.
23. Article 3.2.4.16 of the AFC 2006 stipulates that an automatic sprinkler system shall be equipped with a waterflow detecting device and, if applicable, with an annunciator. The Respondent and Appellant are in agreement that the current device must be examined to determine if it is properly installed and if code requirements are being met. The Appellant is committed to effecting appropriate modifications, if required, to ensure compliance. Verification that the newly installed theatre deluge system flow switch is positioned in a manner that upon its actuation it relays a message to the main fire alarm panel indicating zone of activation to all annunciator panels throughout the complex.
24. Sound insulating enclosure – sentence 3.2.4.19. (7) of the ABC 1997 requires that fire alarm audible signal devices be supplemented by visual signal devices in any floor area in which the occupants are located within sound insulating enclosures. The music rooms are sound insulating enclosures. Although the current music instructor may not be utilizing the rooms for this purpose, the Appeal Panel determined these rooms were designed for the purpose of music practice and that the rooms are sound insulated. One room in question is situated in the educational facility music department. The room was designed and built to accommodate a

projected music curriculum. Regardless of its current use or future music programming needs, the room is sound insulated and there is no line of site to a visual fire alarm indication device.

Dated at Edmonton, Alberta this 24th day of July 2012

Chair, Fire Technical Council Appeal Panel