



Safety Codes Council

COUNCIL ORDER No. 0015479

BEFORE THE BUILDING SUB-COUNCIL

On October 17, 2017

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

AND IN THE MATTER OF the Order Pursuant to Division B Subsection 9.5.2 of the Alberta Building Code 2006, issued July 24, 2017 by an Accredited Agency (Respondent) against a Numbered Alberta Corporation.

While the Order lists 14 contraventions of the Alberta Building Code, both parties agree that only item 11 remains at issue.

UPON REVIEWING the Issued Order **AND UPON HEARING** the Appellant and the Respondent; **THIS COUNCIL ORDERS THAT** the Order item 11 as identified above is **REVOKED**.

Issue:

1. The Appeal concerns a two storey building located in an Accredited Municipality, Alberta, specifically the need for the south exit door to be barrier free.

Appearances, Preliminary, Evidentiary, or Procedural Matters:

2. Appearing for the Appellant, an Architect with an Architect Company. A Representative of the Numbered Alberta Corporation attended the hearing but did not provide evidence.
3. Appearing for the Respondent, the Appeal Panel heard from the Safety Codes Officer (SCO) with the Accredited Agency.
4. An individual from the Alberta Municipal Affairs attended as Technical Advisor to the Appeal Panel (the Panel).
5. Attending as observers were other two individuals from the Alberta Municipal Affairs.

6. At the commencement of the hearing, the Appellant and Respondent confirmed there were no objections to any members of the Panel, and that the Safety Codes Council (Council) in general and the Panel in particular had jurisdiction to hear and decide the appeal.
7. The Panel Chair (the Chair) then explained the process to be followed in hearing this appeal, and read out a list of the written material before the Panel, consisting of the documents listed below in The Record, paragraph 8 as items 1. to 7. At the appeal hearing, the Respondent introduced new evidence (item 8), identified as Exhibit 1 - Respondent, being an excerpt from article 9.9.7.4 of the Alberta Building Code. The Appellant and Respondent confirmed that there were no objections to any of the written material submitted to the Panel prior to the hearing.

The Record:

8. The Appeal Panel considered, or had available for reference, the following documentation:
 1. Notice of Appeal
 2. Request for a Stay of the Order
 3. Acknowledgment Letter dated September 1, 2017
 4. Stay of Order Letter dated September 5, 2017
 5. Appeal Hearing Brief Preparation Guide
 6. Appeal Hearing Brief submission from the Appellant
 7. Appeal Hearing Brief submission from the Respondent
 8. Exhibit 1 - Respondent

Provisions of the Safety Codes Act:

9. The *Safety Codes Act* (S-1, RSA 2000), as amended provides, *inter alia*:

Part 2

Administration

Safety Codes Officers

Employment

33(1) The Minister may, in accordance with the *Public Service Act*, appoint safety codes officers for the administration of all or part of this Act anywhere in Alberta and shall prescribe the powers and duties of the safety codes officers.

Part 5

Orders, Appeals

Order

49(1) A safety codes officer may issue an order if the safety codes officer believes, on

reasonable and probable grounds, that

- (a) this Act is contravened, or
- (b) the design, construction, manufacture, operation, maintenance, use or relocation of a thing or the condition of a thing, process or activity to which this Act applies is such that there is danger of serious injury or damage to a person or property.

(2) An order may be issued to a person who provides services that are the subject-matter of the order or to the owner, occupier, vendor, contractor, manufacturer or designer of the thing or to the person who authorizes, undertakes or supervises the process or activity that is the subject-matter of the order, or may be issued to any 2 or more of them.

(3) An order

- (a) shall set out what a person is required to do or stop doing in respect of the thing, process or activity and a reasonable time within which it must be done or stopped;
- (b) may direct a method of work, construction, manufacturing, operation, maintenance, use or relocation that must be followed;
- (c) may direct that the use of the thing, process or activity be stopped in whole or in part in accordance with the order;
- (d) may direct that a design be altered;
- (e) may direct that an altered design be submitted to an Administrator for review or for registration;
- (f) may direct compliance with this Act, a permit, a certificate or a variance;
- (g) shall meet the requirements of the regulations on format and contents.

(4) On issuing an order, the safety codes officer shall serve a copy on the person to whom it is issued in accordance with the regulations and send a copy of it to an Administrator in a form and within the time satisfactory to the Administrator.

(5) A person who is served with an order under subsection (4) may, within 14 days after being served, submit a written request to the Administrator for a review of the order.

(6) If an Administrator receives a request, in accordance with subsection (5), from a person on whom an order is served and if the Administrator considers that the order

- (a) is improper, impractical or unreasonable,
- (b) contains incorrect references or typographical errors, or
- (c) does not correct or satisfy concerns about safety,

the Administrator may, by order, revoke or vary the original order within 21 days from when the original order was served.

(7) If an Administrator issues an order under subsection (6), the Administrator shall serve it, in accordance with the regulations, on all persons on whom the original order was

served and on the safety codes officer who issued the original order.

Provisions of the Alberta Building Code 2006 (ABC 2006):

10. The Alberta Building Code 2006 provides, *inter alia*:

Division A

1.4. Terms and Abbreviations

1.4.1.2. Defined Terms

Suite means a single room or series of rooms of complementary use, operated under a single tenancy, and includes *dwelling units*, individual guest rooms in motels, hotels, boarding houses, rooming houses and dormitories as well as individual stores and individual or complementary rooms for *assembly occupancies*, *business and personal services occupancies*, *medium-hazard industrial occupancies* and *low-hazard industrial occupancies*. (See Appendix A.).

Division B

9.5.2. Barrier-Free Design

9.5.2.1. General

- 1) Except as provided in Articles 9.5.2.3. and 3.8.1.1., every *building* shall be designed in conformance with Section 3.8.

9.5.2.2. Protection of Floor Areas with a Barrier-Free Path of Travel

- 1) Where a *barrier-free* path of travel required in Article 9.5.2.1. is provided to any *storey* above the *first storey*, the requirements in Article 3.3.1.7. shall apply.
- 2) In addition to the requirements of Article 3.3.1.7., every *floor area* above or below the *first storey* that is not *sprinklered* throughout and that has a *barrier-free* path of travel shall, in the case of *residential occupancies*, be provided with balconies conforming to Sentence (3), except the *storey* containing the *barrier-free* entrance required by Article 3.8.1.2.
- 3) A balcony required by Sentence (2) shall
 - a) have direct *barrier-free* access from the *suite* or *floor area*,
 - b) be not less than 1.5 m deep from the outside face of the exterior wall to the inside edge of the balcony, and
 - c) provide not less than 1.5 m² of balcony space for each non-ambulatory occupant and 0.5 m² for each ambulatory occupant.

9.5.2.3. Exception for Apartment Buildings

- 1) Except as provided in Sentence (2), if the *building* is not equipped with an elevator, the *barrier-free* path of travel described in Section 3.8. need only be provided on the entrance level of an apartment *building*.

The *barrier-free* path of travel on the entrance level described in Sentence (1) need not be provided where the difference in floor elevation between the entrance level and every *dwelling unit* exceeds 600 mm.

3.8.1.2. Entrances

- 1) In addition to the *barrier-free* entrances required by Sentence (2), not less than 50% of the pedestrian entrances to a *building* in Sentence 3.8.1.1.(1), including *walkways* leading to the entrances from a public thoroughfare and from on-site parking areas, shall be *barrier-free*.
- 2) A *suite* of *assembly occupancy, business and personal services occupancy* or *mercantile occupancy* that is located in the *first storey* of a *building*, or in a *storey* to which a *barrier-free* path of travel is provided, and that is completely separated from the remainder of the *building* so that there is no access to the remainder of the *building*, shall have at least one *barrier-free* entrance.

9.9.7.4. Number and Spacing of Egress Doors

- 1) Except for *dwelling units*, at least 2 egress doors shall be provided when the area of a room or *suite*, or the distance measured from any point within the room or *suite* to the nearest egress door, exceeds the values in Table 9.9.7.4.
- 2) Doors required in Sentence (1) shall be spaced so that in the event that one door is made inaccessible by a fire within such room or *suite*, the other door will provide safe egress.

Table 9.9.7.4.
Maximum Areas and Travel Distances for Rooms, Suites and Mezzanines with a Single Means of Egress
Forming Part of Sentences 9.9.7.4.(1) and 9.9.8.6.(2)

<i>Occupancy of Room, Suite or Floor Area</i>	<i>Maximum Area of Room, Suite or Floor Area, m²</i>	<i>Maximum Distance to Egress Door, m</i>
Group C (except <i>dwelling units</i>)	100	15
Group D	200	25
Group E	150	15
Group F, Division 2	150	10
Group F, Division 3	200	15

Position of the Parties

Appellants

From the Appellants' submissions and testimony, and in response to questions posed by the Panel, the Appellants' position may be summarized as follows:

11. As the hearing commenced, it was agreed this matter falls under the 2006 Alberta

Building Code.

- 12.** It was also confirmed that the only issue of the order unresolved and forming the content of this appeal is item # 11 of the July 24, 2017 Order, stating that the “Exit door in south end stairwell does not meet the requirements of Division B Subsection 9.5.2 (Section 3.8 Barrier Free Design) of the Alberta Building Code 2006 for required exits.”
- 13.** The Appellant asked the Panel to consider whether an “exit” door must also be considered an “entrance”, and whether buildings such as the one in question, require a second entrance.
- 14.** The Appellant said there is no requirement in the Alberta Building Code or the Barrier Free Design Guide for a second entrance. The doorway in question is simply an exit.
- 15.** While recognizing that it is the 2006 Alberta Building Code (ABC) that is applicable to this matter, the Appellant asked the Panel to note a small but important change to Section 3.8.1.2.1 in the 2014 ABC, which added, “including the primary entrance” as a way to clarify that the barrier free entrance in all buildings should be the primary entrance.
- 16.** There is nothing in the code that says you need two pedestrian doors to enter a building, and there are good reasons why almost all buildings now have only one pedestrian entry.
- 17.** The first is that commercial and residential buildings are designed to present a good exterior to people entering the building. It is the front door that sets the tone for the quality of the building, and hotels, which are halfway between commercial and residential buildings, are particularly sensitive to this.
- 18.** The second reason is the benefits which arise from having the servicing of the building at a single location, in this case, the front desk, making signing in easy and allowing travellers to be helped to their rooms and shown the amenities. For persons with disabilities, accessibility through the primary entrance is of particular benefit as their rooms are always now located close to the entry where they can get immediate assistance.
- 19.** A third benefit of having a single entrance is the ease and lower cost of maintenance, allowing for clear, dry entries, ensuring safety and comfort for travellers visiting the hotel.
- 20.** Finally, and most importantly, is the security provided by a single, primary entrance. Motels with exterior doors have now almost all been replaced by hotels with central corridors and primary entrances. New hotels have also carefully placed parking in front, both to ensure cars are secure and to stop people from using exits as entries. Having all guests pass the entry desk is important in controlling the building.
- 21.** Included in the Appellant’s written submission (page 2) is a floor plan of the building in question. It shows a two-hour firewall with fire doors which the Panel confirmed were magnetic hold-open doors which are closed if the fire alarm is activated. The Panel confirmed with the appellant that even when closed, the doors are accessible for persons with disabilities.

- 22.** The Panel was advised people staying at the hotel could seek refuge on the other side of the fire doors in the event of a fire on the lobby side of the building, but that their barrier free rooms are all located on the principal entry side of the fire doors and the principal entrance door is barrier-free.

Respondent

From the Respondent's submissions and testimony, and in response to questions posed by the Panel, the Respondent's position may be summarized as follows:

- 23.** The Respondent submitted new evidence during the hearing, being an excerpt from Article 9.9.7.4 of the ABC, noting that "at least two egress doors shall be provided when...the distance measured from any point within the room or *suite* to the nearest egress door, exceeds the values in Table 9.9.7.4", which the Respondent noted is a maximum of 15 metres in a Group C building, which this building is. The floor plan provided by the Appellant shows the distance of the corridor to be 30 metres.
- 24.** The Respondent referenced article 3.8.1.2 of the ABC (documented earlier), noting that the building in question is divided by a fire wall, with the main entrance being barrier free, the doors at the fire wall with hold open devices linked to the fire alarm system, and the rear door accessible by a short flight of stairs. The Respondent said that article 3.8.1.2.(2) requires that the rear door be barrier-free, given that the door at the fire wall is the primary access to this portion of the building, and the rear door is the secondary means of egress. While acknowledging the Appellant's submission that all of the accessible rooms are on the lobby side of the fire wall, you cannot limit the number of persons with disabilities staying at the hotel so some may be situated on the other side of the firewall.
- 25.** The two parts of the building are not designed to be areas of refuge as applicable to care occupancies or certain areas of an assembly building. In the event of fire, the object is to get people out of the building.
- 26.** The building in question has a fire alarm system which is zoned for each side of the fire wall and staged such that persons on one side or the other are alerted of a fire on the other side.

Reasons for Decision (Findings of Fact and Law):

The Appeal Panel makes the following findings:

- 27.** It must be understood, there is a difference between access and egress when applying the Alberta Building Code. While there are provisions in the ABC which address both access and egress to/from buildings and the rooms within them, there is no requirement that exits from a building be barrier free, other than the obvious, that a principal entrance that is barrier free can also be used as a means of egress.
- 28.** Codes are in place for reasons of safety. The issue before the Panel is the safety of the

occupants of the building in question, including persons with disabilities.

- 29.** The design of the building in question, which incorporates a fire wall with hold open doors linked to the fire alarm system, essentially makes these two separate buildings. It is agreed that the primary entrance to the lobby of the hotel is barrier free. It is also agreed that access doors to the corridor and through the fire wall are barrier free.
- 30.** The question that has arisen is whether the rear exit door of the hotel needs to be constructed as barrier free. It is agreed that the primary entrance and the door at the fire wall satisfy the barrier free access requirements to both sides of the building's main floor.
- 31.** In his written submission (Exhibit 2 - Safety Codes Council) the SCO refers to the rear door as the "secondary means of egress from that portion of the building. There is confusion in the references to egress. The rear door is an exit door from the corridor to the exit enclosure and in turn to the exterior of the building. There is no requirement that the second door be barrier free.
- 32.** The Appellant is correct in his assertion that many, perhaps most buildings today have only one accessible entrance. The Panel does not accept the safety codes officer's assertion that the rear door is required to be barrier free as per sentence 3.8.1.2. (1) of the ABC, being satisfied it is not a "pedestrian entrance" but simply an exit. The principal pedestrian entrance to that part of the building is, in the Panel's opinion, the door at the fire wall.
- 33.** The safety codes officer's reference to Table 9.9.7.4., and the requirement that there be a second egress door in certain circumstances, is not, in the Panel's opinion applicable in this instance. The Panel is satisfied the single egress door from the room or *suite* is within 15 metres "from any point within the room or *suite*", and there is no need for a second means of egress from the room or *suite*.
- 34.** Article 3.8 of the ABC is specific in addressing entrances to, and path of travel within a building and makes no reference to egress/exits. While egress doors are referenced in sentence 9.9.7.4. of the ABC, as noted earlier, that sentence deals with egress from a room or *suite*, and not the building itself.
- 35.** There is no expectation that buildings be designed such that persons with disabilities have a barrier free path of travel and barrier free exit from the building, Building evacuation is an operational issue. Fire Safety Plans are a requirement for buildings such as the one in question, and must include procedures to be followed, including special provisions for persons requiring assistance. There is a presumption that if a person with a disability can make it to an exit/exit enclosure, they will be assisted.
- 36.** The Order, requiring the south exit door to be barrier free, is not, in the Panel's opinion, supported by the evidence presented at the appeal hearing, or by provisions in the ABC itself. For these reasons, that part of the Order (being clause #11) is revoked.

Signed at the City Edmonton)
in the Province of Alberta)
this 6th Day of November A.D. 2017)

Chair, Building Sub-Council Appeal Panel