

STATE FIRE PREVENTION COMMISSION
MINUTES
August 30, 2012

Members Present: Timothy F. Dayton, Chairman
Sharon S. Gilyeat, Vice Chairperson
Charles D. Davis
Brian S. Geraci
K.C. Harrington
Mark F. Hubbard
Martin J. LePore
Anthony J. Spencer
Richard L. Yinger

Chairman Dayton called the meeting to order at the Laurel City Municipal Building.

FIRE MARSHAL REPORT

Fire Marshal William E. Barnard reported the Office of the State Fire Marshal (OSFM) currently has two full-time vacant positions--Administrative Aide (AA) and Deputy State Fire Marshal (DSFM). The AA position is in the process of being filled. The DSFM position is being held vacant to meet turnover requirements. DSFM Cory Hurst has successfully completed the FBI Hazardous Devices School in Huntsville, Alabama. This brings the total equipped OSFM Bomb Technicians to fourteen, the most ever for the agency.

As of August 29th, fire deaths in Maryland stand at thirty, compared to thirty-five for this period in 2011. The Marshal distributed the six-month 2012 Fire Deaths report which is also on the OSFM website at www.mdsp.org/firemarshal. Baltimore City has a significant decrease with only three reported thus far.

Six counties have not submitted MFIRS reports. Companies continue to be reminded to get reports to the OSFM by the 10th of the following month.

All OSFM email addresses have been changed to the following format: firstname.lastname@maryland.gov. The Fire Marshal's new address is william.barnard@maryland.gov

NFPA has once again agreed to provide code update training for Maryland Code Officials. Four seminars have been scheduled. The two-day seminar for newer officials on September 11-12th will provide a more in-depth review of the 2012 NFPA 1 Fire Code and 2012 NFPA 101 Life Safety Code. Three one-day refresher seminars for experienced officials will be held on September 13th, 18th, and 19th. The seminars will also review changes in the State Fire Prevention Code which is anticipated to be adopted January 1, 2013. Many thanks to NFPA for providing this training and the Maryland Fire and Rescue Institute for use of its classroom facilities.

Governor Martin O'Malley has proclaimed September as "Campus Fire Safety Month" in Maryland in support of educating students and families about the dangers of fire in both on- and off-campus housing. It is estimated that 86% of student fire deaths occur in off-campus housing. Fire Marshal Barnard presented the Commission with the Governor's proclamation. The OSFM will issue a news release in conjunction with this topic.

Governor O'Malley will also proclaim the week of October 7-13th as "Fire Prevention Week" in Maryland. This year's theme is "Have 2 Ways Out" in order to protect your family. Fire and life safety information will be provided by the OSFM to include tips about escape planning. The purpose of Fire Prevention Week is to educate all citizens about fire safety so they can have a hand in preventing home fires and protecting their families. Eighty-five percent of all fatal fires occur in the home.

The Home Fire Safety Sprinkler Coalition has introduced the "Built for Life" Program to help fire departments educate their communities about home fire sprinklers. More information is available at homefiresprinkler.org. Fire departments enrolling in the program will be provided with free resources and educational support materials.

Some local jurisdictions are amending out the residential sprinkler requirements which are contained in the 2012 editions of the building codes. Effective October 1, 2012, a new state law will prohibit local jurisdictions from amending out the sprinkler requirements in future code cycles. Vice Chairman Dayton attended the Allegany County Commissioners code hearing. They voted 2-1 to amend the sprinkler requirements out of the code but they are still investigating incentives for those who may want to install sprinklers voluntarily. The Chairman also reported that Frostburg (Allegany County) was recognized by NFPA for their adoption of residential sprinkler requirements.

The Fire Marshal will make a presentation at the October 6th Maryland Municipal League meeting to help them understand the need for sprinklers in homes being built with new light-weight construction materials.

The University of Maryland will demonstrate a new German designed low pressure sprinkler system on October 10-11th (with the 12th as an alternate date). The design flows four to six gallons per minute at 70 psi. Commissioner Lepore is involved with the demonstration and invited everyone to attend.

Updates and resource links are being added weekly to the www.mdlifesafety.org website. The Fire and Life Safety Information Exchange Program will be providing interactive fire and life safety related games in the near future once a few compatibility issues are resolved.

The first meeting of the Maryland Youth Fire Intervention Coalition was held at the National Fire Academy on August 9th. Representatives from several agencies and departments discussed how to address juvenile firesetting issues in Maryland. The next meeting will be held at the Howard County DFRS Training Academy on October 24th. Anyone interested in participating should contact DSFM Bruce Bouch at the OSFM HQ Office.

Fire departments are encouraged to create a wish list for fire safety educational materials for use during school visits and community events. Sparky's Wish List, part of the Fire-Safe Communities nonprofit section of NFPA, will allow businesses, community members, and others to purchase wish list items directly from NFPA who will then send the materials to the fire department. Additional information is available at www.nfpa.org/SparkysWishList.

The U.S. Fire Administration (USFA) plans to incorporate the theme "Fire is Everyone's Fight" into most fire prevention and life safety materials. Additionally the USFA is leading an effort to determine what resources are available (such as PSA's, radio, TV, websites, newsletters, etc.) for use by fire and life safety organizations, highlighting those that have been evaluated for effectiveness. The USFA plans to develop new resources to meet identified needs. The initiative was born from social marketing research commissioned by Vision 20/20, a grassroots effort to define and help implement a national strategy for fire prevention. Local fire departments are encouraged to participate. Information is available at www.USFA.fema.gov/fireiseveryonesfight.

The Mid-Atlantic Life Safety Conference "Caring For Your Community – and Yourself" will be held September 26th at the Johns Hopkins Applied Physics Laboratory Kossiakoff Conference Center in Howard County. The keynote speaker, Vicky Taylor from the National Fire Academy, will present "The Power of Five". Registration information is available at www.fabscom.org.

The Fire Marshal encouraged everyone to visit the OSFM Facebook page to find all the educational news releases issued by the OSFM. At least two releases are issued each month. DSFM Bruce Bouch is doing an outstanding job with the press releases and his other public information duties.

The Fire Marshal delivered the reappointment paperwork for Commissioners Geraci and Hubbard to the Governor's Office and is waiting to hear the status. A replacement for Vice Chairperson Gilyeat is still pending. In addition to electing a new Vice Chair, volunteers will be needed to replace her Commission representation on various committees.

CHAIRMAN REPORT

Chairman Dayton extended congratulations to Fire Marshal Barnard for being recognized by the Home Fire Sprinkler Coalition and the International Association of Fire Chiefs for his initiative and success in helping get Maryland legislation passed to prohibit local authorities from amending out residential sprinkler requirements in the building Codes. The "Bringing Safety Home Award" was presented to him earlier this month.

OTHER BUSINESS

Matthew Kelleher, Chairman of the Maryland Smoke Alarm Technology Task Force presented the Commission with its final report "Exploring Changing Technologies to Improve Residential Smoke Alarm Performance". Mr. Kelleher introduced several committee members who were present in the audience. The committee spent nearly two years reviewing various new smoke alarm technologies, fire codes, and the existing Maryland laws to see if improvements could further reduce fire fatalities in residential structures. Based on their findings it became clear that too many older homes in Maryland still lack sufficient functioning early warning smoke detection. The report reviews the changing technologies and recommends various changes in the Maryland laws to increase the location of alarms throughout residential structures utilizing more technologically advanced detectors, such as the sealed long-life battery detectors. It also recommends the formation of a standing Smoke Alarm Technology Advisory Committee, to include a Fire Prevention Commission representative, to review and evaluate new technologies as it develops. Committee member, OSFM Chief Fire Protection Engineer A. Larry Iseminger, Jr., highlighted some of the findings and recommendations of the report. The recommendations are compatible with NFPA 72 and the International Residential Code requirements. The next step in the process will be to convince the legislators to change the law.

Vice Chair Gilyeat reported she contacted Cathy Rueter regarding her concerns about surgical center fires and the reporting of fires/patient burn injuries during surgical procedures. Ms. Rueter is an advocate to reduce surgical burn injuries and to bring awareness to the risks of using flammable materials on patients for surgical preparation. Vice Chair Gilyeat reported the risk of fires from the use of flammable preparations and lasers is a valid concern. Some facilities do risk assessments and report them but many do not. While Maryland Health laws require the reporting of burn injuries, Fire Marshal Barnard stated unfortunately it is very hard to police their compliance when we are not aware of the injuries. While it is probable that such burn injuries are occurring in Maryland, he is not aware of any being reported to the OSFM. The Fire Marshal stated the OSFM can try to educate the facilities on this issue and he will also contact the Department of Health and Mental Hygiene inspectors to help assist in facilitating awareness.

Vice Chair Gilyeat reported Koffel Associates is sponsoring a health care facilities program at the Kossiakoff Center on September 18th. There are many changes in the NFPA requirements for these facilities.

Motion by Commissioner Yinger, second by Commissioner Harrington, and unanimously carried to approve the minutes of the June meeting.

CODE OF MARYLAND REGULATIONS

Chairman Dayton called the public hearing to order on amendments to COMAR 29.06.01 State Fire Prevention Code and 29.06.07 Ground-Based Sparkling Devices as well as the repeal of COMAR 29.06.03 Approval of Testing Laboratories as published in the Maryland Register on August 24, 2012. Fire Marshal Barnard spoke in favor of adopting the amendments as proposed. He stated the Code Update Committee spent many hours reviewing the 2012 editions of NFPA 1 Fire Code and NFPA 101 Life Safety Code and the amendments are consistent with State laws. There were no other public comments. Public comments will be accepted through September 24, 2012. The Commission will review all comments received and render a vote on the proposed amendments.

APPEALS

Case 12-03 St. Edmonds United Methodist Church, Chesapeake Beach, Calvert County: The appeal was withdrawn and no hearing took place.

Case 12-04 Reinheimer Gazebo, Stevensville, Queen Anne's County: The appeal was withdrawn and no hearing took place.

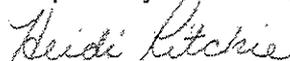
Case 12-05 Kaywell Construction, Maryland Fire Sprinkler Contractor License: Kewal Khatta, the owner of Kaywell Construction Corporation, appealed the Office of the State Fire Marshal's decision to deny renewal of its previously suspended license and to revoke its license. Based on the testimony presented, the Commission unanimously affirmed the Fire Marshal's decision to revoke the sprinkler contractor license of Kaywell Construction Corporation, effective immediately. A copy of the Commission's decision is attached for the record.

Case 12-06 Camp St. Charles, Rock Point, Charles County: The Commission received an appeal of an inspection by the Office of the State Fire Marshal requiring secondary means of escape to be provided from each sleeping area of the infirmary. The appeal was withdrawn and no hearing took place.

MEETING SCHEDULED

The next meeting is scheduled for Thursday, October 18, 2012, 10:00 a.m. at the Maryland State Police Western Operations Center, 18345 Colonel Henry K. Douglas Drive, Hagerstown, Washington County.

Respectfully submitted,



Heidi Ritchie, Secretary

Attachment:
Memorandum Opinion and Order Case 12-05

BEFORE THE FIRE PREVENTION COMMISSION

KAYWELL CONSTRUCTION CORP. *

Petitioner *

v. * Case No. 12-05

STATE FIRE MARSHAL *

Respondent *

MEMORANDUM OPINION AND ORDER

I. Introduction

On May 31, 2012, the State of Maryland Office of the Fire Marshal (“Fire Marshal”) notified Kewal Khatta, the owner of Kaywell Construction Corporation (“Kaywell”), that Kaywell’s license to perform automatic sprinkler work in Maryland would be revoked if Kaywell did not file an appeal to this Commission, and that Kaywell’s application for renewal of its previously suspended license was denied. On June 20, 2012, Kaywell filed a timely appeal with this Commission of the Fire Marshal’s decision to revoke its license. The Commission held a hearing on August 30, 2012. For the following reasons, the Commission will affirm the decision of the Fire Marshal to revoke Kaywell’s sprinkler contractor’s license.

II. Issue

Should Kaywell’s sprinkler contractor’s license be revoked because Kaywell violated Code of Maryland Regulation (COMAR) 29.06.05.05.A(4)?

III. Findings of Fact

1. On April 26, 2010, The State of Maryland Office of the Fire Marshal issued a Class I and Class IIIc Sprinkler Contractor License (“license”) to Kaywell Construction Corporation. Fire Marshal’s Exhibit 4.

2. On December 1, 2011, the Fire Marshal suspended Kaywell’s license because Kaywell had not provided adequate verification that it employed an approved Designated Qualified Individual who met the required certification(s) for a Class I and Class IIIc License in accordance with the provisions of COMAR 29.06.05.04.H(2)(a)(b) and COMAR 29.06.05.04.B(a)(b). Fire Marshal’s Exhibit 7. By letter dated December 1, 2011, the Fire Marshal explained that “[t]he Designated Qualified Individual must possess a NICET II certification in the field of fire protection, inspection, and testing of water-based systems and a NICET III certification in the field of Fire Protection Automatic Sprinkler System Layout or be a Maryland Professional Engineer who is knowledgeable in areas about fire sprinkler systems.” *Id.* The letter explicitly informed Mr. Khatta that “Kaywell Corporation is no longer licensed to perform any type of fire sprinkler work in the State of Maryland as prescribed in COMAR 29.06.05.05.A(3). Kaywell may not initiate any new contracts, however, may complete contracts initiated prior to December 1, 2011.” *Id.*

3. After December 1, 2011, Kaywell performed sprinkler design work for Taste of Asia, a business located in Frederick, Maryland, and Supreme Buffet,

a business located in Hagerstown, Maryland. Fire Marshal's Exhibits 1 and 3; *see also* Fire Marshal's Exhibit 5.

4. In January, 2012, Kaywell sold the use of its license to Kyong B. Yoo, doing business as Core Fire Protection Company ("Yoo"), a contractor that was not licensed to perform sprinkler design or installation in Maryland, for \$1,000.00. Fire Marshal's Exhibit 6.

5. On February 1, 2012, Yoo applied for a permit, on behalf of Kaywell, to do sprinkler installation work at Taste of Asia, using Kaywell's license with Kaywell's full knowledge and consent. Fire Marshal's Exhibit 2.

6. On or about March 15, 2012, Deputy State Fire Marshal Sander Cohen witnessed three individuals, who had in their possession sprinkler design plans prepared by Kaywell, represent themselves as employees of Kaywell and attempt to apply for a county sprinkler permit, using Kaywell's suspended sprinkler contractor's license, to install a fire sprinkler system in Montgomery County, Maryland. When questioned, the men said that they knew that Kaywell's license had been suspended but they explained that the issue was being taken care of.

7. As the Fire Marshal concluded in its May 31, 2012 letter notifying Kaywell that its license would be revoked: "Kaywell Construction Corporation has violated the provisions of COMAR Regulation [sic] 29.06.05.05.A(3) and (4) on multiple occasions by doing fire sprinkler design and installation work subsequent to the suspension of Kaywell Construction Corporation's fire sprinkler

contractor's license on December 1, 2011 and by allowing unlicensed persons to, for a fee, use Kaywell Construction Corporation's fire sprinkler contractor's license to obtain permits to perform fire sprinkler installations in Maryland."

IV. Conclusions of Law

COMAR 29.06.05.05.A provides in pertinent part as follows:

The State Fire Marshal may deny a license to an applicant, reprimand a licensee, or suspend or revoke a fire sprinkler contractor license if the applicant or licensee:

...

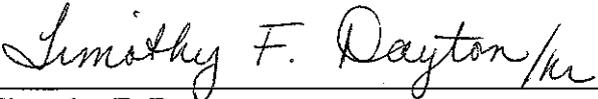
(4) While unlicensed, performs fire sprinkler work that requires a license under this chapter.

V. Conclusion

Therefore, based on the above findings and our review of the above-quoted COMAR provision, the Commission affirms the Fire Marshal's decision to revoke the sprinkler contractor license of Kaywell Construction Corporation, effective immediately.

ORDER

For the foregoing reasons, on this 24th day of September, 2012, the decision of the Fire Marshal to revoke the sprinkler contractor license of Kaywell Construction Corporation is AFFIRMED, and the appeal filed by Kaywell Construction Corporation is DENIED.



Timothy F. Dayton
Chairman, Fire Prevention Commission