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Court Douses Sprinkler Requirement for Some Multifamily Renovations

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Sprinkler systems save lives and property, but also are very expensive to install on existing housing stock. The Massachusetts Supreme Judicial Court in MacLaurin v. City of Holyoke provides a new test for determining when automatic sprinklers are required due to renovations of residential buildings consisting of four or more units.

The Commonwealth requires automatic sprinkler systems on new residential buildings of four or more units. Where such buildings were constructed prior to enactment of the sprinkler system requirement, Massachusetts law provides that an owner must install automatic sprinklers when such buildings are "substantially rehabilitated so as to constitute the equivalent of new construction."

In the case at hand, the property owner undertook a number of renovations over several years, all under valid building permits. Nearing completion of the work, the City fire chief issued orders requiring installation of automatic sprinkler systems in the buildings.

Under a quirk of Massachusetts law, the Court notes that "the residential sprinkler provision is the only section of the fire prevention act requiring the installation of automatic sprinklers that does not contain language affording a statutory right of appeal." The fire marshal, building code appeals board, and automatic sprinkler appeals board all declined to hear the owner's appeal, concluding that they did not have jurisdiction. The owner was ultimately able to obtain judicial review through a nonstatutory path called "certiorari." The procedural details can only be loved by lawyers, but the Court notes that "a hearing would have been appropriate" and "consideration might well have been given to holding such a hearing early in the project, when adjustments could be made most cost-effectively…." Hopefully this will result in the fire marshal, building code appeals board, and/or automatic sprinkler appeals board being more receptive to holding a hearing to review a local fire chief order as to a residential automatic sprinkler system.

In interpreting the language "substantially rehabilitated so as to constitute the equivalent of new construction," the

Court created a new test to determine whether this standard was met: “in order to require the installation of sprinklers in an existing multi-unit residential building, the rehabilitation must be so substantial that the physical structure is rendered ‘the equivalent of new construction,’ i.e., in essence as good as new. Where the rehabilitation is suitably substantial in this regard, a corollary is that the cost of installation of automatic sprinklers ordinarily will approximate the cost of installing sprinklers in a comparable newly constructed building.” Thus, the Court rejects an interpretation of the statutory language as the equivalent of “major alteration,” which is applied in other contexts.

The economic test of the corollary, whether the cost of installation of automatic sprinklers ordinarily will approximate the cost of installing sprinklers in a comparable newly constructed building, provides a workable standard for analyzing property renovations to determine whether or not sprinkler retrofits will be required. But before inhaling, property owners should keep in mind that local officials often strongly favor installation of sprinklers in project rehabilitations and at least in the first instance may not be swayed by the Court’s argument. Owners may well need to obtain that further hearing process described above to get the MacLaurin standard fairly applied.

It is worth noting that the Court makes two interesting observations in passing. The Court details the history of the evolution of fire suppression laws in the Commonwealth and how such laws tend to follow fire related tragedies. Second, the Court notes that each of the buildings in question here have sustained fire damage in the past. Whether or not anything comes of it, it appears that the Court is signaling the Massachusetts legislature to consider stricter sprinkler laws prior to the occurrence of the next major fire-related tragedy. It will be worth watching to see if the Massachusetts legislature attempts to follow up on the Court’s implied suggestion.