

**STATE OF MINNESOTA**

**STATE BUILDING CODE BOARD OF APPEALS**

In the Matter of the Appeal of  
Kenneth Rowe,

FINAL DECISION  
Dated: December 19, 2018

Appeal No. 18-02

This matter came on for hearing before the State Building Code Board of Appeals (“Board”) on December 3, 2018. The record closed at the conclusion of the hearing.

Kenneth Rowe, the applicant and appellant in this matter, appeared on his own behalf. Steve Ubl, Building Official for the City of Saint Paul, appeared on behalf of respondent City of Saint Paul.

The issue in this appeal is whether the City of Saint Paul Building Official had the authority to decide whether Appellant’s proposed membrane structure, erected for less than 180 days per year, was permitted.

Mr. Rowe stated that he applied for, and received, zoning approval for the temporary membrane structure. Mr. Rowe stated that he spoke with a Saint Paul fire official after he received a summary of abatement from a building code official and was told that there was no problem with the membrane structure. Mr. Rowe appealed through the city to its legislative hearing officer but his appeal was denied because of correspondence the Building Official had with the hearing officer. There was no dispute during the hearing that the structure at issue was a temporary membrane structure erected for a period of less than 180 days. This appeal followed.

Minnesota Rule 1305.0011 adopts the 2012 international building code by reference, including chapter 31. Chapter 31 governs Special Construction. Section 3103 addresses temporary structures. Section 3103.1 states that “Tents and other membrane structures erected for a period of less than 180 days shall comply with the *International Fire Code*.” The Fire Code is governed under Minnesota Rules. Chapter. 7511, and neither the Building Official nor the Board of Appeals has authority to make determinations under that code.

Pursuant to the Board’s authority under Minn. R. 1300.0230, and based upon the entire record, including all documents, testimony, and arguments submitted to the Board, the Board has determined that this matter must be remanded to the City of Saint Paul for a decision by the appropriate Saint Paul Fire Official under the Fire Code, including any appeals of that decision. The motion to remand passed unanimously.

## RIGHTS OF APPEAL

This is the final decision of the State Building Code Appeals Board in this matter. A person aggrieved by this decision may, within 180 days of its date, appeal to the Commissioner of Labor and Industry as set forth in Minn. Stat. § 326B.139.



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SCOTT McKOWN, Chair  
State Building Code Appeals Board